1958

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

BANKING AND COMMERCE

To whom was referred the Bill (C-37), intituled:
An Act respecting the Taxation of Estates.

The Honourable SALTER A. HAYDEN, *Chairman*

No. 1

MONDAY, AUGUST 18, 1958.

WITNESSES:

The Honourable Donald Fleming, P.C., Mr. H. Roy Crabtree, Mr. W. J. Hulbig, Mr. C. D. Paxton, Mr. W. I. Linton, Mr. J. K. Allison, Mr. A. R. Courtice, Mrs. W. H. Gilleand, Mrs. J. F. Flaherty, Mrs. G. D. Finlayson.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1958

62190-4—1

BANKING AND COMMERCE

The Honourable Salter Adrian Hayden, *Chairman*

The Honourable Senators

*Aseltine	Golding	Monette
Baird	Gouin	Paterson
Beaubien	Haig	Pouliot
Bouffard	Hardy	Power
Brunt	Hayden	Pratt
Burchill	Horner	Quinn
Campbell	Howard	Reid
Connolly (*Ottawa West*)	Howden	Robertson
Crerar	Hugessen	Roebuck
Croll	Isnor	Taylor (*Norfolk*)
Davies	Kinley	Turgeon
Dessureault	Lambert	Vaillancourt
Emerson	Leonard	Vien
Euler	*Macdonald (Brantford)	White
Farquhar	McDonald	Wilson
Farris	McKeen	Wood
Gershaw	McLean	Woodrow—49.

(Quorum 9)

**ex officio* member.

ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate for Thursday, August 14th, 1958.

"The Senate resumed the debate on the motion of the Honourable Senator Thorvaldson, seconded by the Honourable Senator Emerson, for the Second reading of the Bill C-37, intituled: An Act respecting the Taxation of Estates.

After further debate, and—

The question being put on the motion for the second reading of the Bill, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Thorvaldson moved, seconded by the Honourable Senator Pearson, that the Bill be referred to the Standing Committee on Banking and Commerce.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

62190-4—1½

MINUTES OF PROCEEDINGS

MONDAY, August 18, 1958.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 2.00 P.M.

Present: The Honourable Senators: — Hayden, *Chairman;* Aseltine, Baird, Bouffard, Brunt, Connolly (*Ottawa West*), Croll, Farquhar, Haig, Howard, Lambert, Leonard, Macdonald, McDonald, McLean, Monette, Turgeon, Vaillancourt and White. 19.

In attendance: Mr. E. R. Hopkins, Law Clerk and Parliamentary Counsel, the Senate, and the official reporters of the Senate.

Bill C-37, An Act respecting the Taxation of Estates, was considered.

On motion of the Honourable Senator Aseltine it was RESOLVED to report recommending that authority be granted for the printing of 1,000 copies in English and 200 copies in French of the Committee's proceedings on the said Bill.

The Honourable Donald Fleming, P.C., Minister of Finance, was heard in explanation of the Bill.

At 3.00 P.M. the Committee adjourned.

At 3.30 P.M. the Committee resumed.

The following witnesses were heard and questioned:—

Mr. H. Roy Crabtree, Chairman; Executive Council, Canadian Chamber of Commerce.

Mr. W. J. Hulbig, Associate General Counsel, Sun Life Assurance Company, presented a brief on behalf of the Canadian Chamber of Commerce.

Mr. C. D. Paxton, Assistant General Manager, The Royal Trust Company, also heard on behalf of the Canadian Chamber of Commerce.

Mr. W. I. Linton, Administrator, Succession Duties, Department of National Revenue.

Mr. J. K. Allison, Montreal Trust Company, also heard on behalf of the Canadian Chamber of Commerce.

Mr. A. R. Courtice, Assistant General Manager, Toronto General Trust Company, presented a brief on behalf of The Trust Association of Canada.

Mrs. W. H. Gilleand, Vice President, Canadian Federation of University Women.

Mrs. J. F. Flaherty, Executive, Canadian Federation of University Women.

Mrs. G. D. Finlayson, Chairman, Canadian Committee on the Status of Women and Vice President, National Counsel of Women.

At 5.45 P.M. the Committee adjourned until tomorrow, Tuesday, August 19th, 1958, at 10.30 A.M.

James D. MacDonald,
Clerk of the Committee.

THE SENATE

STANDING COMMITTEE ON BANKING AND COMMERCE

EVIDENCE

OTTAWA, MONDAY, August 18, 1958

The Standing Committee on Banking and Commerce, to which was referred Bill C-37, an act respecting the taxation of estates, met this day at 2 p.m.

Senator Salter A. Hayden in the Chair.

The CHAIRMAN: Gentlemen, we have before us Bill C-37 respecting the taxation of estates. There are one or two preliminary observations I should make. One is that the committee at this time intend to sit until the 3 o'clock bell goes and at that time we will adjourn for approximately half an hour and then come back here and resume the sittings of the committee until 6 o'clock. At that time we will adjourn until 10.30 tomorrow morning.

Now, that is the proposal subject to the wishes of the committee in that regard. The Senate will be sitting this evening and I understand that there is a full agenda before it. Under those circumstances that is the proposal for the foreseeable future as to the sittings of the committee.

Senator ASELTINE: That is the suggestion?

The CHAIRMAN: Yes, we will sit all afternoon with the exception of half an hour and start again tomorrow morning at 10.30.

May we have a motion from the committee to print 1,000 copies of our proceedings in English and 200 in French?

Senator ASELTINE: I so move.

Carried.

The CHAIRMAN: We have with us this afternoon representatives from a number of organizations who wish to be heard. First, we have the Minister of Finance and at this stage the suggestion is, again, if the committee approves, to call on the Minister of Finance for something in the way of a general statement.

Senator ASELTINE: I move that we call on the Minister of Finance for a preliminary statement.

The CHAIRMAN: Does that meet with the approval of the committee?

Carried.

The CHAIRMAN: Mr. Minister, you have the floor.

Hon. Donald Fleming. (*Minister of Finance*): Mr. Chairman and honorable senators, first let me thank you for the opportunity of appearing before you to make what will be just a brief preliminary statement concerning this Bill C-37, the new estate tax bill.

May I say at once that having made this preliminary statement, I will be at your service if you should need me at any later stage of the proceedings. If you care to send for me at any time I hope to be able to make myself available.

The officials who are well acquainted with all aspects of the bill are before you and will be in constant attendance upon you as you may desire.

I think I should say that the officials who are before you are drawn from both the Department of Finance and the Department of National Revenue. I am sure all members of this committee are well acquainted with Dr. A. K. Eaton, Assistant Deputy Minister of Finance, who is on retirement leave at the present time, and who was good enough—and I do want to record this fact if I may—to come back in connection with the various bills arising out of the budget, to help us see them through at this present session, and I have had occasion elsewhere to record my own deep sense of gratitude to Dr. Eaton, and I mention that here as well, Mr. Chairman.

Then as well we have from the Department of National Revenue Mr. W. I. Linton and Mr. A. L. DeWolf and Mr. D. H. Sheppard. Mr. Sheppard is the Assistant Deputy Minister. Mr. Linton and Mr. DeWolf are the officials of that department who have had most to do directly with the administration of the Succession Duty Act and with the advice upon which a new estate tax bill is based. And then, from the Department of Finance here are Mr. F. R. Irwin and Mr. E. H. Smith. Then there is Mr. D. S. Thorson, who is the draftsman of the bill. Mr. Thorson is one of those officials on loan from the Department of Justice to the Department of Finance.

Mr. Chairman and honourable senators, there has long been need of a searching review of legislation pertaining to federal taxation in the case of death. The present Dominion Succession Duty Act was enacted in 1941. It has been submitted to amendments on only very rare occasions since. It was about a decade ago that a change was made in the exemption, but this is one of the acts which had had very little examination in Parliament from that time.

I can say that in the other place there have been particularly in recent years many requests for a review of the Act, and two of my predecessors have indicated to the other place that it was their intention in the succeeding session to bring before Parliament extensive amendments or new legislation in that respect. At the last session it was my privilege to bring before the house a bill based upon studies that had been going on for a considerable period of time. They did not just begin in June; they had been carried on for several years; and these studies were embodied in Bill 248, which was introduced at the last session. In introducing it in the other place I made the statement on behalf of the Government that it was not our intention to ask the other place to carry the bill beyond first reading. It was given first reading; the bill was circulated; and I asked that the interval between that time and the next following session, namely the present one, should be employed by interested organizations in an examination of the bill, and coupled it with the request that they would give us the assistance of their comments upon the bill. The response to this request was most gratifying, Mr. Chairman, and we have received, in the period of the last six months, particularly this spring, a great many briefs and representations. I believe that virtually all the national organizations that have shown an interest in the subject submitted briefs, and we had many individual submissions by letters and otherwise.

Virtually all of the national organizations had a hearing. They sent delegations, and they were heard, in many cases by my colleague the Minister of National Revenue, and myself, as well as the officials. I should like to express here, as I have on other occasions, Mr. Chairman, my own very deep gratitude, as well as that of the Government, for this public response, reflecting as it does not only public interest but a deep sense of public responsibility on the part of many of these national organizations. I might say that every point raised in every brief in every letter by every delegation was carefully reviewed. These studies that were carried on in the two departments principally concerned extended over a period of some time. It was part of the work of preparation for the budget. There were meetings daily, sometimes twice a

day; meetings of 15 or 16 men, going over all aspects of the representations that had been made. In the end, as a result of these extensive reviews, a new bill was introduced, in the form of C-37, almost exactly in that form. This bill embodies extensive changes as compared with Bill 248 which had been introduced at the last session. Many of the points that were put forward by these national organizations were adopted. There were others, of course, that we did not adopt and, I think, in every case for ample reasons. It was not that in many cases we would not have liked to adopt the others but it got down to a question of revenue. While this bill does reduce the taxation on estates substantially, under the pressures that exist at a time like this, with an estimated deficit this year of $650 million, there is a limit to the distance one can go in giving effect to many representations, however much one would like to give effect to them, that do involve further curtailment of national revenues. Of these extensive changes that have been made in the bill as compared with Bill 248, the taxpayer derives very substantial benefits.

The editor of the *Canadian Tax Journal,* with which publication I am sure all members of this committee are familiar, in his opening paragraph in the July-August issue, speaking of the comparison of Bill C-37 with the former Bill 248, had this to say:

> Several of the changes go to the fundamentals of death taxation and are more sweeping in their effect than most of the innovations in the first measure. On the whole the taxpayer has come off quite well. Of a dozen or so major changes most are to his advantage.

One could point as well to similar expressions on the part of other national organizations who made submissions, many of whose suggestions were adopted while others were not adopted. One could mention, for instance, the news letter for the July-August period issued by the Canadian Chamber of Commerce in which they draw attention to the number of suggestions which they put forward which were adopted, as well as others that the Government found it could not adopt under the circumstances I have described.

Mr. Chairman, it would not be appropriate at this time to launch into any detailed comment upon any of the provisions of this bill. May I say in quite general terms, however, that I do respectfully commend this bill to the committee. It is a good bill. I don't say it is a perfect one. I don't know how anyone could draw a perfect bill with respect to a tax measure, least of all with respect to taxing the estates of deceased persons, for there are many difficult situations that arise and one must in these circumstances be guided on the one hand by the necessities of providing revenue and, on the other, by one's desire to be generous in respect of taxation exemptions.

As a Government measure may I urge that it is one that has been very carefully prepared and studied over a long period of time. Every suggestion put forward has been submitted to very careful scrutiny and consideration. I submit it to you respectfully, Mr. Chairman, and honourable senators, as a major advance, a major reform, in federal taxation with respect to estates of deceased persons. In a budgetary sense this measure will effect a noteworthy reduction in the taxation of estates. It is estimated that the total reduction that this measure will bring about in the revenues from the taxation of estates will be about $7 million in a full year as compared with the present yield under the Dominion Succession Duty Act. The benefit of that reduction is enjoyed principally by estates up to about $200,000. We have substantially increased the exemptions; the exemptions now are higher than they have ever been before. There are some who have made representations who would like higher exemptions. Well, I have to say in that respect, Mr. Chairman, who would not? Nothing, I can assure you, would make the Minister of Finance happier than to be able to propose exemptions, but here is another

case where one has to try to arrive at a balance between the necessities of meeting the budgetary requirements and the desire to distribute the burdens equitably over the entire taxpaying public.

The estate principle has been adopted in this measure, the idea of levying a tax upon the mass of the estate, rather than according to the succession principle where we are dealing with the number of successions from testator or intestate to successor, whatever number there may be in any particular estate. In this respect we are following the practice and enjoying the experience of the United Kingdom which has now adopted the estate tax fully. The result, we think, is not only a substantial simplification of the tax structure in respect of estates, but a greater measure of equity in that regard. We have gone farther than has ever been attempted before in federal legislation in recognizing the ownership principle in the case of property jointly held. I think we have gone farther in this bill in eliminating discriminations than has ever been attempted before. We have introduced new and very equitable, indeed, quite far-reaching measures in connection with insurance.

These are but a few of the features of this bill, Mr. Chairman. With respect, we commend it to the committee as a good bill, and as I indicated earlier, Mr. Chairman, if there is anything in which you require my presence I will hold myself available on call as your hearings proceed, and the officials from the departments concerned will be here at your service at all times. To take advantage of this opportunity to pay tribute to those officials, Mr. Chairman, I know something of the effort, the study, that has been devoted to this measure on the part of these officials, and I cannot pay too high a tribute to the effort and the public spirit of these gentlemen. Thank you very much.

Senator John A. McDonald: Would it be a fair question to ask that if this legislation is passed as it is at present stated, would there be a possibility, if economic conditions improve, that the taxpayer could still get further relief in another session?

Hon. Mr. Fleming: Mr. Chairman, may I say of this or any other tax measure, or any other matter that comes under the jurisdiction of the Department of Finance, that it will continue to be under examination at all times. Certainly we intend, having taken some responsibility in connection with this measure, to watch its operations very closely, and whereever opportunity offers itself of making improvements in the measure as time goes on we shall, I assure you, continue to look for them.

Senator McDonald: I was wondering if economic conditions improved before the next session, whether the taxpayers could hope for still further relief.

Hon. Mr. Fleming: The taxpayers affected by this bill, C-37, are not the only ones to bear in mind. But, no one will be happier than the Minister of Finance when the time comes that our revenues have so improved that he will have the privilege of proposing further tax reductions.

Senator Howard: Mr. Chairman, honourable ministers, officials and gentlemen,—first of all I should like to congratulate the Minister of Finance and his officials for the bill which they have drafted, and which is now before us, with a view to getting away from the old succession duties and coming more in line with England and the United States by way of an estates tax. On the other hand, after studying the bill, reading the discussion in the committee of the other house, and making a comparison between Bill 248 of last session and Bill C-37, I can see many instances where the legislation could be considerably improved. I do not mean necessarily by way of reduction of taxation, but rather the improvement of conditions which, I think, are not compatible with the advancement of Canada as a country at the present time.

I have of late had considerable experience in this field, and I should like to congratulate the officials of the Succession Duties Department for the splendid work they have done, and the co-operation they have shown. But after all, in this field the officials have to abide strictly by the act, and the minister himself has a very few discretionary powers.

To put it briefly, I was wondering if the minister would consider applying the proposed exemptions to the present Succession Duties Act beginning, we will say, on October 1st; so, for any one who dies between now and the next session of Parliament, their estates would not be hurt. Further, I would propose the appointment of a sub-committee composed of paid tax experts to represent the people who, after all, are the customers of the Government as much as they are customers of mercantile, retail or wholesale businesses. In that way the bill could be re-drafted and prepared for passage at the next session. I believe that would be more workable.

I do not propose to move at this time that such action be taken, but I throw it out as a suggestion; if the committee later on agrees to the proposal, I am prepared to move it.

The CHAIRMAN: Are there any other senators who wish to make observations on the general remarks of the Minister?

Senator MACDONALD: I would like to ask one question, Mr. Chairman. It is taken for granted, apparently, that this principle of taxing estates is preferable to the old principle of taxing the succession. I wondered if the Minister could explain to whom the advantage accrues. Is the advantage to the taxpayer or to the administration? The Minister has stated that this system has been adopted in Great Britain and in the United States, but he has not said why. Why don't we stay with the former system? What is the benefit of this system over the system that has been in effect for so many years?

Hon. Mr. FLEMING: Mr. Chairman, I will be delighted to answer that question of Senator Macdonald. It is a contribution to clarification, to simplification, to equity, as well as to reduction of taxation to adapt the principle of the estates tax. In the succession principle, whether all testators or in estates realize it or not, every individual succession upon death bears its own tax and if the testator wishes to make provision for relief of the successor from the burden of taxation he must so provide.

I am sure that Senator Macdonald as all who are present of the legal profession have drawn many wills with that expressed provision in mind because they wanted to introduce with respect to that particular will what is in effect the estate principle rather than have the succession principle apply to it.

Now, simplification is I think a desirable goal. It is so much simpler under a measure of this kind to look at the estate in the mass and to know the tax that will be levied by the federal jurisdiction upon it. I think that is an advantage to the taxpayer, to the person administering the estate as well to those who are charged with the responsibility. There should be some simplification from the point of view of administration and enforcement and to that extent the taxpayer will derive benefit. I would expect there will be opportunity for speeding up the assessments through the process of simplification as a result of the introduction of the estate tax principle.

And then, on the ground of equity, Mr. Chairman, I think there is much to be said for the estate tax principle. Here we are putting more emphasis upon the aggregate of the estate. And here is something that I think goes beyond simply the matter of simplification and clarification. Here is a measure it seems to me that has equity to commend it as well. Now, to

tie that in with what we are proposing here in regard to exemptions and the process of applying the tax on the mass of the estate rather than on what might be termed a multitude of succession.

We have proceeded on the assumption that we are going to subtract from that mass $40,000 to begin with. We have preserved here the principle that exists under the Succession Duty Act that no estate under $50,000 shall bear any tax whatever. And in addition in certain cases that we think have circumstances to commend that we have proposed that there be additional exemptions or subtractions from the mass.

Now these are all reasons that have commended themselves to us in relation to the principle of this measure. They have been found by long experience in the United Kingdom and in the United States now to be sound, to be a better method of levying taxes on the estate of a deceased person. As you know, for a century the United Kingdom has levied a variety of taxes to apply in the case of death and now, after that long experience with various forms of tax applicable on death, they have selected this method as a method dictated by experience as the most sound and fair.

Mr. Chairman, might I be permitted to make one comment on Senator Howard's suggestion?

The CHAIRMAN: Yes.

Hon. Mr. FLEMING: With great respect, that suggestion of Senator Howard, I am afraid, is not a practicable one. One has to have regard to the situation in both houses and to the limits of the budget process in the House of Commons. It would not be possible now at this stage to introduce measures to amend the Succession Duty Act. There would be great difficulty in working out the kind of exemptions that the senator has proposed, and I come back to what I said at the beginning, I commend the measure as one that has already received that very detailed and searching study which he has proposed, and I am sure by the time this honourable committee has reviewed it, Mr. Chairman, it will be clear that all the points that can be raised on this measure have been raised. We have been looking for something new and we have not found anything new as yet in the progress of the bill up to this time that had not been put forward before the bill was ever drafted or brought to Parliament, and I am quite sure that with the kind of analysis the bill will receive here, the kind of study, with all the officials here to discuss matters, and representations such as you intend to hear, that there will be, I trust, no need of the kind of further study that the senator proposes. Indeed, that is the kind of study that the bill has received and received intensively over a period of months.

Senator POULIOT: Mr. Chairman, may I ask a question of the Honourable Minister of Finance?

It is the second time that I see him at this committee, and it is a sign of goodwill, of what Mr. Mackenzie King called godwill and a spirit of co-operation, etc.

My question is this: He spoke to us about the British Estates Tax. Does he not think that the Birtish laws concerning the taxation of estates should be taken with a grain of salt because at the present time everybody is complaining that the estates have been ruined by the laws in force in the United Kingdom? I give this as a subject of meditation.

Hon. Mr. FLEMING: Mr. Chairman, may I thank Senator Pouliot for his welcome. Believe me it will always be a pleasure to come to this committee as long as the committee will receive me.

The dissatisfaction to which Senator Pouliot has referred in the United Kingdom Estate tax, as I understand it, is not on the principle of the estates tax but rather with respect to the rates of tax applied on the estates principle.

The exactions of the tax gatherer in the United Kingdom under the estates tax principle run up to something like 80 per cent, and the top rate under this bill, which is the same as under the Succession Duty Act, is 54 per cent on the highest estate.

Senator BOUFFARD: Plus the provincial succession duty tax, of course?

Hon. Mr. FLEMING: No, there is credit given for the provincial tax in the case of the two provinces that still collect their own succession duty.

Senator BOUFFARD: Only for a part of it, Mr. Minister.

Hon. Mr. FLEMING: I think it will be found that there is an allowance for the tax levied in the two provinces. The figure I have given of 54 per cent represents the maximum under both the present Succession Duty Act and of this bill. There is no increase in the total percentage brought about by this bill, none whatever and as I stated Mr. Chairman the United Kingdom legislation relates to the estates tax principle rather than the rate.

Senator CROLL: Mr. Chairman, may I ask the Minister a question?

I am sure that somebody in the department must have made some study of this element: In studying these estates were the estates broken down in order to ascertain where the $7 million is likely to be saved? For instance, estates up to $100,000, between $100,000 and $200,000 will be affected differently. Will someone have that figure? I do not see it in the minutes.

Hon. Mr. FLEMING: Yes. Mr. Smith will be the official to put that question to, Mr. Chairman.

Senator CROLL: You mean you have not the information?

Hon. Mr. FLEMING: Yes. I gave the figure earlier.

Senator CROLL: No, you gave a figure of $7 million.

Hon. Mr. FLEMING: I gave the figure earlier, that the reductions are on estates up to $2,000,000. That is the breaking-point now between the reductions and the place where, from there on, the reductions are not of consequence.

Senator MACDONALD: I think Senator Croll was referring to the number of taxpayers who will be affected in this bill as compared with the old bill.

Senator CROLL: I had in mind both the amount, and the number.

Hon. Mr. FLEMING: We will be able to supply that.

Senator WHITE: The minister a few minutes ago said that under the new act there will be simplification of administration. I presume he refers particularly to administration in the department. Would the minister please explain that? Apart from the present way, where you make the assessment in various degrees against the estate, and under the new bill you will have a rate against the whole estate, how is there going to be any simplification of that?

Hon. Mr. FLEMING: That in itself will be a substantial simplification, because in many estates there may be a large number of successions. I suppose all of us in this committee who have practised law have had experience with some estates where there have been a number of successions. It involves examination in every case to determine the degree of relationship, and other considerations. That of itself would be a substantial simplification. But there are other simplifications which, I am sure, will become apparent as the review of the bill clause by clause proceeds. But I think it is quite apparent that treating the estate en masse is of itself a substantial contribution to simplification. One could point to other clauses of the bill—I do not know that you want me to get into clauses—but there are a number of clauses which represent substantial simplification. One could point to the rules with regard to determination of situs of property as one of the cases where by this bill a considerable contribution has been made to simplification.

Senator MACDONALD: That could be done under the former Succession Bill.

Hon. Mr. FLEMING: Yes. On the other principle, it has not been done. Senator White's question was not on that.

Senator LEONARD: I am quite in accord with the principle of the estate tax as against the succession duty tax. I think the minister is perfectly correct in his position there. But there is another new principle in the bill that disturbed me, and that is the change in the well-recognized principle of taxing real estate where it is located; and here we are introducing the principle of taxation of foreign real estate owned by Canadians. I read the reasons given for that, to prevent Canadians from investing their money in some jurisdiction outside of Canada and reducing their Canadian tax thereby; and if we stopped there I could see the reason for the introduction of that new principle; but on balance I think there is far more money coming from the United Kingdom, and that has come from the United Kingdom in the past, and other countries, for investment in real estate in Canada. I have in mind, for example, the Guinness development at Vancouver, and the development of the Grosvenor estates; but as we run across the country we all know of cases of substantial investments by people outside of Canada in real estate in Canada; and I would think that that movement is likely to continue unless we open the door for the United Kingdom and other countries to adopt that new principle we are putting in this bill, and tax their nationals in money invested in real estate in Canada. If you would not mind, I would like to have your comments on that.

Hon. Mr. FLEMING: Mr. Chairman, it is true that in the past there has been a different rule with respect to the ownership of real estate abroad as far as taxation is concerned, but it seemed to us, with respect to this bill, that this differentiation with respect to real estate was in effect a discrimination, and that the sounder rule was to remove that special categorization of real estate and to assimilate it with other forms of property with respect to this tax.

Senator LEONARD: Even though other countries could adopt the same rule?

Hon. Mr. FLEMING: As far as other countries are concerned—the senator will bear me out in this—there are some tax conventions here that will have to be renegotiated. The one with United States, for instance, is one that will have to be renegotiated. That question was put at an earlier stage in the proceedings, "What are you going to do with respect to existing conventions?" And the answer was given, and I repeat it here, that there will have to be a renegotiation of several of these existing conventions.

Senator LEONARD: Will not the net result be that on balance there will be more investment capital prevented from coming into Canada than there will be Canadian capital prevented from going abroad?

Hon. Mr. FLEMING: With respect, Mr. Chairman, we think not.

Senator J. J. CONNOLLY: With respect, may I follow that? You are proposing to give credit for the tax paid there in the Canadian tax paid.

Hon. Mr. FLEMING: Yes. The rule there is as it was in the past, that you take the lesser of either the tax paid abroad or the proportionate amount of the total tax that is the same as the ratio of the property abroad to the total property.

Senator J. J. CONNOLLY: In view of the fact that there would be no credit given for the tax paid abroad, if the old status were restored, I presume that there would also not be very much loss to the treasury.

The CHAIRMAN: The inclusion of the foreign property would have the effect of increasing the capital value of the estate, and therefore putting you in a higher bracket.

Senator J. J. CONNOLLY: The tax credit, of course, on the other hand, might be paid abroad on the same real estate and reduce the tax take by the department here. My point is simply this, that if you are not going to do this, if you are to reverse the position now established in the bill and re-establish the position that exists in the act now, do you think there would be much of a fiscal loss to Canada?

Hon. Mr. FLEMING: I think I would want to give a little more consideration to your question, Senator Connolly, before being too specific on that point as to where the net result is going to fall.

Senator CONNOLLY (*Ottawa West*): I know it is complicated, for the total value of the estate can be increased too.

Hon. Mr. FLEMING: There is a hypothetical element in the question which makes me wish to be a little cautious in giving you an immediate answer. However, that point can be further considered, and the officials will be available to give examples as to the way this will work out in respect to any given circumstances that can be postulated.

The CHAIRMAN: Mr. Minister, the effect may well be this. The bulk of the estate may be in Canada and you will have property outside of Canada. Under the bill the value of the property outside of Canada is added to the value of the property in Canada so you have a larger sum total, and to some amount of it a higher rate of tax will apply. The rate of tax that will apply on the smaller portion of the estate outside of Canada will be smaller, and you are getting more tax by this method in Canada, and the credit you get, which is a tax deduction from tax, will be less. So you stand to make some profit.

Hon. Mr. FLEMING: I say there will be some addition to the Canadian Treasury from this change in the form of taxation.

Senator HOWARD: That's right.

Senator CONNOLLY: On the property of a Canadian?

Hon. Mr. FLEMING: Yes. The unique treatment of real estate in this respect will be removed and you will have a common treatment of the various classes of property. One of the things we have encountered in connection with various of the more difficult questions that have arisen—I had better not mention any examples because that will set things off, Mr. Chairman—

The CHAIRMAN: That's right. Let's be general.

Hon. Mr. FLEMING:—has been this question of trying to maintain an equal treatment between different classes of property. Now, there is one type of property which was pressed on us very strongly in certain quarters. It was said, "Why don't you allow an exemption here?" Well, the fact is if we had done that the result would have been a discrimination in favour of that particular type of property. If you accept the fact you have to have a certain amount of revenue to provide Government services in this country, then what are you going to do? Are you going to create exemptions which have a discriminatory feature to them or are you going to try to assimilate all classes of property to similar, equal treatment, and then seek where you can to introduce reductions and exemptions that are available to all? That is what we are up against and that is the answer, I think, to some of the questions that I can just realize, Mr. Chairman, are coming up.

The CHAIRMAN: Mr. Minister, there was one question I was wondering if you would care to answer. It is a policy question. What were the impelling motives that led you to make this 15 per cent tax applicable to non-domiciled persons in relation to Canadian property?

Hon. Mr. FLEMING: This is a new principle in the bill and we think there is definite advantage in this new form of tax in the case of the non-domiciled

person. In the first place, you have all the "ease" and simplicity that is available to the taxpayer. The non-domiciled person, coming into Canada and making his investment here, knows in advance, precisely what the tax is going to be. We think that is going to be a contribution to encouraging the development of investment. We think, Mr. Chairman, the certainty of that is going to contribute to confidence and investment. We found that some of the apprehensions that were entertained about this were based upon an assumption which just could not be made to hold water. The idea is that if Canadians who have amassed substantial properties in Canada want to evade Canadian succession duty, under the present bill it would not be very difficult for them to do so. The fact is, Mr. Chairman, there are now ways this can be accomplished and the Government cannot prevent it. In the net result it appealed to us that we would be surer of our 15 per cent revenue in these cases than we would be under the present act where opportunity for evasion does exist and cannot be prevented. Much as we would like to prevent it, people who have amassed property can if they wish go abroad and take the property abroad in order to prevent Canadian succession duties being applied thereto. In other words, they can put that property beyond the reach of the Canadian tax authorities. When I made a similar statement before the Banking and Commerce Committee in the other house somebody piped up and said, "How?" One of the officials started to explain how and—

Senator CONNOLLY *(Ottawa West):* You deleted the record?

Hon. Mr. FLEMING: I craved leave of the Chairman to stop him at that point. Fifteen per cent is an accepted rate of taxation with respect to certain similar forms of income tax. It has a certain amount of acceptance behind it in that respect, and we think there is real merit in that provision.

The CHAIRMAN: Will the 15 per cent produce a lesser amount of tax revenue than the present rate?

Hon. Mr. FLEMING: No. I am told not, Mr. Chairman. It will produce about the same as we are getting now. It is just about the same figure.

Senator BRUNT: Have you not made it very easy for a wealthy woman who has acquired all her money in Canada to escape by paying the tax of 15 per cent? All she has to do is marry somebody with a foreign domicile.

A SENATOR: It works both ways.

Hon. Mr. FLEMING: That point was put to me in the Banking and Commerce Committee in the other house and all I had to say about it was that I didn't think that that situation would very often arise. I think matrimony would be quite a price to pay for exemption under these circumstances.

Senator LAMBERT: May I express a word or two in appreciation of the presence of the Minister of Finance here today, and to make a comment about his references to the thoroughness of his departmental officials being responsible for the Government being able to produce this bill? Those of us who have heard these officials in committee in the past are aware of the thoroughness and ability they have displayed in connection with any work they have undertaken. Their lucid explanations and enlightenment on legislation which might be analogous to this has been full testimony to what the Minister has said about them.

The point I would like to make here is that in my opinion gradualness is the approach which should be adopted in connection with legislation of any kind. It is the essence of our parliamentary system of government. Therefore, with very great respect for all the work that has been done in connection with this bill and for the inquiries and the analyses of officials, does not this particular bill require a full measure of public elucidation for the benefit of the largest possible number of our people who are affected by it? It is

that point that I should like to emphasize to the Minister here, that even if consideration of this bill were prolonged, might it be advisable say in the public interest not to press it forward in this particular session, but that it be given a little more time for examination for the benefit of those who are directly affected. We had that experience in one of our committees before, in connection with the present Income Tax Act, when the change was made over from the Wartime Income Tax Act, and I think that anyone who followed the discussion and the results of that hearing would agree that it had succeeded in convincing the public of this country as a whole, that the wise thing was being done in amending the Wartime Income Tax Act into its present form.

Now, we approved this bill in principle when it was referred to this committee, but I do think, in view of the discussions I listened to already in our Senate the other day, that the need for gradualness in the forming of our final opinion and judgment on this matter would be very desirable.

Hon. Mr. FLEMING: Mr. Chairman, may I respectfully suggest to Senator Lambert that the principle of gradualness has been very punctiliously observed in connection with this bill. In cases such as he referred to in the past sometimes the bill has been introduced in the Senate to begin with and has stood over for a session for further public study before being proceeded with. Sometimes the reverse has been the case. This is one of the cases in reverse. The bill, as I have said, so far as study is concerned in the department, had been under study there as to its principle, for some three or four years, and the bill was introduced at the last session; then six months after the resolution preceding it was introduced there, the bill was again put forward in the Budget Speech of the House of Commons, and there has been, I think it fair to say, that measure of public study and public review which the senator and I together would regard as altogether reasonable and indeed desirable. Extensive briefs were submitted—many of them; they were very carefully reviewed, and many of the briefs are in accord with the new bill that is before this committee now. The bill was reviewed in the other place and in the committee there, and I am quite sure that with whatever representations this committee may choose to hear, the bill in all its features will be fully reviewed in this committee. I should like to leave no doubt on this point, Mr. Chairman, that it is the Government's desire that this bill should be enacted at the present session. We brought it forward for this purpose. It is a tax reduction measure, and we hope that the benefits of the measure will be available to the public as soon as may be.

Perhaps I will be forgiven for saying one more word on that point, as to the time within which the bill may be brought into effect. This is touched upon on the final clause of the bill. The question is how soon such a bill can be brought into effect. This bill will not repeal the Succession Duty Act. That act will continue to be in effect with respect to the estates of all persons who die prior to the date of proclamation of the new bill, and the old act will continue on all old estates. I made a statement in the other place the other day that it would be the intention of the Government to allow a reasonable period of time during which those who want to change wills in the light of the Estate Tax principle—will have ample opportunity to do so. It is not just a case of a measure to be proclaimed by the Clerk, after Royal Assent. What I said was that it would be a matter of some months before the bill would be brought into effect; and I can assure the committee that there is no though that this is the kind of bill that can be rushed into effect by proclaiming it a few weeks after Royal Assent. There will be ample time given so that the public may be fully warned on the date of coming into effect of the new Act.

The CHAIRMAN: Gentlemen it is now three o'clock and we shall adjourn, to resume after the House rises.

—Upon resuming at 3.30 p.m.

The CHAIRMAN: The meeting is resumed. We have before us a number of organizations and representatives to support their briefs. We are now distributing a brief which was filed by the Canadian Chamber of Commerce. I understand Mr. Crabtree is going to make the presentation.

Mr. H. Roy Crabtree, Chairman of Executive Council, Canadian Chamber of Commerce: Thank you, Mr. Chairman and honourable senators, the Canadian Chamber of Commerce is a voluntary organization composed of some 750 member boards and chambers from all provinces in Canada and from towns and cities large and small throughout the country. The chamber is very grateful of the opportunity to be heard before this committee. We have already made our representations to the minister following an extensive study of Bill 248, and have studied the replacing bill C-37.

Mr. Chairman, I am not going to give the actual presentation. We have in our party Messrs. **W. J. Hulbig, C. D. Paxton and J. K. Allison, all of whom are members of the Subcommittee on Estates Taxation of the Chambers Public Finance and Taxation Committee.** With your permission I would like to call on Mr. Hulbig, who will be the chief witness for the chamber.

Mr. W. J. Hulbig: Mr. Chairman and honourable senators, I believe most of you have a copy of our brief. It is not very long, and if it is the wish of your committee I shall read it. Then my colleagues would be very glad to expand on any of the points if you desire.

Some SENATORS: Agreed.

Mr. HULBIG: The executive council of the Canadian Chamber of Commerce, in response to the invitation extended by the Minister of Finance, made an extensive study of Bill 248, presented its recommendations to the minister and now has studied the replacing Bill C-37 as amended by the House of Commons.

If I might digress from the brief, I should like to make a few comments from the original brief to state the principles upon which the submission was based. We had the privilege of hearing the minister earlier, and he did mention that, with his deficit, he did not see fit to diminish taxation, but it had been our impression in the Chamber that death taxes provide a very small part of the nation's revenue, and it had also been our impression that changes could be made in the proposed legislation to give effect to the principles without any appreciable effect on the fiscus. Those principles considered were: justice and fairness as between the taxpayer and exchequer; no discrimination as between taxpayers; simplicity of administration both for taxpayer and Government; that the law be prepared in terms of general principles leaving the ultimate interpretation to the courts, and that the legislation do not so inhibit and impede the owners of businesses that the economy will lose more than it profits.

I do not think any one of you would quarrel with that statement of principles; in any event, those were the principles which prompted the preparation of our brief.

The Executive Council has noted with satisfaction that many of its recommendations have been given effect. Some of the substantive recommendations which the executive council presented have, however, not been implemented in the amended bill. The Executive Council regards these omissions of sufficient importance to the general economy to justify bringing their views to the attention of you and your Committee. While there are other points which the Executive Council still feels to be important, this submission singles out the matters of major significance. They are: first, the effect of the new estates tax on pension benefits, death benefits, primarily going to heirs, widows and children, of employees and others, and similar income rights. These are dealt with in section 3(1) (j) and (k) of the bill. It is submitted the needs of the

revenue in these fields are adequatley covered by income taxation; that death taxes on pensions and death benefits are socially undesirable; that employers and individuals should be encouraged rather than discouraged to provide for widows and dependents; and that—regardless of theories of taxation—hardship results from the double impact of death taxes and income taxes on such benefits.

Subject to and subsidiary to the general recommendation that such benefits should not be taxed, the Executive Council, if its primary recommendation remains unrecognized, submits that the proposed legislation fails to take into account certain pertinent facts. Such benefits are received over a term. It is undesirable that the tax on the capitalized value should be payable immediately or over a short term when even the amount of the tax, itself, may only be recovered by the recipient over a period or may never be recovered. In particular, it is invidious to assess and immediately collect tax based on a capitalized value, by the application of mortality tables, when the successor may not even live long enough to receive benefits equal to the assessed tax. It is excessively harsh that no account is taken of the impact of income tax when computing estate tax on such benefits and vice versa.

The Council recommends that to the extent that such rights are included for tax, the legislation provide: (a) that any non-commutable annuity, income or periodic payment effected in any manner other than by will and payable to any member of the immediate family of the deceased be exempt to the extent of $1,200 per annum with respect to any one person and $2,400 in the aggregate (vide s. 4 (1) (i) Ontario Succession Duty Act); and (b) that the tax otherwise applicable to the income right, etc., be divided by the fixed term or, where appropriate, by the life expectance and be collected annually as a withholding tax over the term of payment or the lifetime. Thus, where the income right is payable for the lifetime of the recipient, the withholding tax will be collected so long as, and only as long as, the recipient lives. As mortality tables will have been employed, the Crown overall will lose no tax. Accordingly the taxpayer will not be called upon, as at present, to pay tax upon a benefit which he may not receive. If such rights are to be subjected to both estate tax and income tax, then it is the contention of the Executive Council that the law should provide (a) relief from the double impact of estate tax and income tax, for tax on tax is wrong in principle; (b) relief where the income right fails to materialize as for example on the early death or remarriage of the recipient, and (c) a method of payment which will not in any case be confiscatory in its application.

Perhaps, Mr. Chairman, you will permit me to follow the example of the Minister and read a further extract from the Canadian Tax Journal which follows the extract which he read a little earlier.

As you are aware of course the Canadian Tax Journal is the official journal of the Canadian Tax Foundation. I am reading from Volume 6, July-August 1958 at page 238. It goes on to say:

> It also seems to us that something might finally have been done to alleviate the heavy burden of tax on pensions, annuities and other periodic payments that are subject to both death duties and income tax almost simultaneously. This appeal has been made so persistently that it is difficult to understand why some government hasn't made a concession simply to remove a chronic source of grievance.

And in that connection we might say that the Chamber of Commerce has been making annual representations on this score since 1950. No doubt the argument has been lost on doctrinal ground.

I should like to reiterate the comment made in the Canadian Tax Journal that this bill should remove the heavy burden on pensions and annuities and other periodical payments.

Our second main point deals with VALUATION.

The Council recommends that ss. 26, 27 and 28 be deleted, leaving without qualification the standard of fair market value. Here is an outstanding case where the law should express a broad principle, subject to interpretation in the light of particular facts, with the administration subject to the supervision of the courts in the traditional manner.

To say that value shall be "fair market value" (s. 58(s) (ii) and then to say "in determining the value of any property no allowance or deduction shall be made for or on account of income tax" (s. 26) appears to set up a contradiction in terms. In many instances, an important ingredient of fair market value is income tax liability, e.g., value of shares of a corporation. A willing purchaser will not pay a willing seller for a tax liability. If the Council's other recommendations are adopted (e.g., that pensions and death benefits be not subject to estate tax) some of the objectionable aspects of this section will disappear. If they are not, the deletion or mitigation of s. 26 becomes the more necessary, and the Council reiterates its strongly held conviction that the same property should not be exposed to the double impact of estate taxes and income taxes without any deduction on account of either.

As to s. 27(1) no quarrel exists with using "closing price" as to the principal test in the valuation of listed securities; but it should not be the only test.

The Council does not favour the disregard of facts to fit deemed administrative needs and recommends that "fair market value" be the sole criterion.

3. THAT THE LEGISLATION PROVIDE THE OPTION OF AN ALTERNATE VALUATION DATE

The Executive Council can see no valid reason for the present inflexible system of tying value unalterably to date of death. Undeniably at date of death, or even shortly after, it is impossible to realize assets for the payment of taxes, or for any estate purpose. The capital of an estate should not be confiscated when economic conditions bring about diminution in values after death before realization is possible. For example, a method permitting valuation at date of death or one year later seems eminently fair. This is called the alternate valuation system. Under this system the executors have the option of valuing the estate tax for death duty purposes either at the date of death or at the end of a stipulated period. In the latter event, assets sold in the meantime are valued at their sale prices. The Council knows of no practical reason why such a method should not be adopted in Canada, as it is in the United States.

Senator BOUFFARD: Is it not so in England also?

Mr. HULBIG: I cannot answer that.

Mr. C. D. PAXTON: It is in England in connection with real estate only.

The CHAIRMAN: And not in connection with other assets?

Mr. PAXTON: No, for real estate only.

Mr. HULBIG: 4. A REASONABLE DEDUCTION FOR LEGAL FEES AND EXECUTORS' COMPENSATION

An estate must be administered and reasonable expenses of administration including executor's fees, solicitors and notary's charges should rank equally with general debts and funeral expenses. On the grounds that a beneficiary should not be taxed on what he does not receive it is recommended that provision be made to include such expenses provided they are reasonable and are, in fact, paid.

5. CERTIFICATE OF DISCHARGE

The institution of executor is important to the community. So that persons will not be reluctant to assume the duties of executor, tax legislation should make it possible for an executor, having completed his duties in so far as his responsibilities to the Revenue are concerned, to be freed from further personal risk.

Failing fraud, wilful misrepresentation or wilful failure to disclose, an executor should have the right to obtain a final discharge. The ability to apply for and obtain a discharge which is a feature of the Succession Duty Act should be continued. Application for a certificate of discharge provides an opportunity for the Revenue to make a final examination and come forward with its claim against the executor if it has one. If responsible people are deterred from accepting the post of executor by fiscal legislation, and it is submitted that the legislation in its present form will have that result, the interests of neither the Crown nor the nation are served. Therefore, the Council recommends that these provisions be recast to limit the personal liability of the executor and to give him the right to obtain a certificate of discharge.

The Executive Council is of the view that the foregoing matters are of major significance and commends them to your full consideration.

May I add this? I am not familiar with your procedure from here on, but if, in the detailed consideration of the sections, we can be of any use, we would be more than happy to speak, or otherwise, as you see fit.

The CHAIRMAN: At the present time we have a very definite method that we follow. Have any senators any questions to ask Mr. Hulbig on this brief?

Senator ASELTINE: Referring to section 26 of the bill, it states:

"For the purposes of this part, in determining the value of any property no allowance or deduction shall be made for or on account of income tax".

A man dies and owes $10,000 or $20,000 income tax arrears. That section does not prevent that fellow from having to pay.

The CHAIRMAN: No; that is a debt of the estate.

Senator ASELTINE: This refers to income tax.

The CHAIRMAN: As an element of value.

Senator ASELTINE: On property that is being inherited.

The CHAIRMAN: On property that is being inherited, in arriving at the payment.

Mr. HULBIG: The other, as I mentioned, would be a debt against the estate.

Senator HAIG: Illustrate what you mean by that. I don't understand that at all. I understand that on the 30th April I have to pay my income tax for the year 1958. Supposing I die in March, 1959.

Mr. HULBIG: The gentlemen behind me can answer this better than I, but whatever tax is owing by you up to the date of your death is a debt of your estate. When you are out of the picture your estate will be an entity and the property in the estate itself will produce income after you are out of the picture.

Senator HAIG: The present law of the dominion is that you get the income tax out of the estate up to the date of the last payment, plus another payment, whatever you agree upon, not less than to the date that you die.

The CHAIRMAN: This has nothing to do with that question at all. Section 26 deals only with the question of valuation.

Senator HAIG: That comes into valuation.

The CHAIRMAN: It says that for the purposes of valuation no allowance shall be made for or on account of income tax. I agree that that section is worded so broadly that in attempting to value shares you may have to ignore

the existence of income tax (1) that is accruing due in relation to the estate, (2) maybe relating to the thing you are valuing. For instance, shares of a company in a company where there is a substantial take which may be taxable. But maybe the wording is broader.

Senator CROLL: This is the first time I have seen a Canadian Chamber of Commerce submission. It makes sense to me. It occurs to me that it might be useful to the committee if at this very moment, now the gentleman has finished, you might call on Mr. Eaton, or whoever is in that department, to meet these suggestions, rather than wait for some later time when they may become more foggy to us.

The CHAIRMAN: I am not wedded to any procedure, but the only thought I had for proceeding in this fashion was that I did not want this thing to develop into an argument between the representatives who are presenting the brief and the representatives of the department (1) on the interpretation of the section, and (2) whether it should do that or not. I thought we should hear what the representatives have to say. Then we will consider the sections of the bill, we will ask the representatives of the department what is the purpose and what is the intended scope of this section, then we decide whether we vote for it or not.

Senator HAIG: That is why I asked the question what this section really means in this man's mind, the way he has got it. Mr. Eaton may interpret it in another way; and we will be in a jam.

The CHAIRMAN: And we may interpret it another way ourselves.

Mr. HULBIG: I think the answer lies in the words "the value of any property". I think you have to look at the property and see if any income tax attaches to that property, rather than to any individual.

Senator HAIG: A man has a mortgage on a piece of land at the time of his death. Maybe it is a farm which he has sold and taken a mortgage back. Income tax is paid up to the 1st of November, and he does not die until May, and there is interest running on that. Is that interest up to that time taken as an asset?

Mr. HULBIG: For the value of that estate no account will be taken of any income tax that may accrue. The mortgage will be an asset of the estate.

Mr. PAXTON: I take it that we are concerned with the meaning of the word "value" there. Value refers (a) to the value of an estate as a whole for duty purposes, and the value of the estate as a whole is less any debts that may be owing, and that includes income tax up to the date of the decease. The second meaning of the word "value" is valuation of shares, and that, I think, is the value to which the section of the act refers; and there are two distinct valuations there.

Senator HAIG: At the present time they ask you to give a return when the income tax on that mortgage was paid, and, say, the interest was paid in November, and interest is accruing in the meantime, and they make you pay income tax on that.

Mr. PAXTON: It would include income tax to the death. It lessens the value of the estate, but it does not lessen the value of the mortgage as an asset.

Senator BRUNT: Is it not a fair statement that this act makes no change in the valuation of a mortgage such as has been outlined by Senator Haig? It is exactly the same under the Succession Duty Act and the Estates Tax Act. There is absolutely no change with respect to valuation of a mortgage.

Senator HAIG: It doesn't change the valuation of the mortgage at all but it puts an income tax on the estate.

The CHAIRMAN: Could I take a minute to illustrate what I think is a case which gives you the application of section 26? Let us say you have in the estate a second mortgage and it carries an interest rate of 7 per cent. The mortgage has two or three years to run and there is a bonus. In other words less than 100 per cent of the mortgage money was advanced at the time the mortgage was required. Then the question becomes very important as to whether the bonus is in the nature of income which attracts income tax or wether it is a capital gain. That must be a factor in the valuation of that mortgage at the date of death because if there is an element of income tax by reason of a bonus, then the mortgage is worth less.

Senator THORVALDSON: I think honourable senators would really like an explanation as to the effect of that section. Wouldn't it be best to get that from the officials of the department either now or later on? This is an important matter and I think we might have it cleared up perhaps now.

The CHAIRMAN: I don't want to establish a precedent. I don't want to have a cross-fire argument betweeen those making representations here and the departmental officers. However, if you want a clarification as to how that section has been applied in the past—and since it is still the law—perhaps Mr. Linton will tell us that.

Mr. LINTON: What has been done and is intended to be continued is that in respect to all income tax owing at the date of death or before the date of death, and on the accumulated interest accruing at the date of death will be deductible as a debt under the duties succession. This is intended to bar the reduction in value of an asset by income tax yet to be paid by the heirs or a company or somebody else in the future.

The CHAIRMAN: Or the element that might be in the mortgage bonus.

Senator BRUNT: Give us a specific example with respect to shares of a company.

Mr. LINTON: You have a company with an undistributed surplus that may or may not in the future become liable to income tax if they take the surplus out; if income tax becomes payable, this section would be a bar to the use of that in reducing the value of the shares of the company on an asset basis in advance of the tax being paid.

Senator CONNOLLY (*Ottawa West*): Doesn't it go further? In the case of the company, if at the time of death that company has a liability for income tax, must that liability not be disregarded in evaluating the shares or for purposes of this act?

Mr. LINTON: We would think not. We have never operated on that basis and that is not the intention. If there is a created liability existing at the time of valuation, then that is the factor in arriving at the fair market value.

Senator CONNOLLY (*Ottawa West*): Let me get this part clearly. Let us say for the sake of argument that the shares in this company have to be liquidated either to administer the estate or pay the duty. Now, if there is a tax liability other than a tax liability arising because of the accumulated surplus, that tax liability is not covered by section 26. Therefore, you will allow that as a deduction in determining the value of those shares?

Mr. LINTON: Provided that the liability had arisen at the date of death, which is the valuation date. If the date of death was before the date of realization and the tax had become payable on the company's income for the succeeding year, it would not be allowed but anything outstanding at the date of death would be.

Senator LEONARD: What you really have in mind is the potential tax liability with respect to the accumulated surplus income?

Mr. LINTON: That's right, senator.

Senator BOUFFARD: What about the tax due in the course of the year? Let us say that a man dies in the month of May and the company has to pay its company taxes every three months.

The CHAIRMAN: Well, let us take this assumption. There are shares of "B" company in an estate and when you come to value those shares you find that the "B" company has a large accumulation of arrears of income tax. Those are the two factors. Then when you are evaluating the shares of that company in the estate are you permitted to reflect a reducation in the value by reason of the fact that the limited company owes income tax.

Mr. LINTON: We understood so, yes.

Senator CONNOLLY (*Ottawa West*): So that the only tax liability that you are getting at through section 26 is the tax liability that arises out of the application of a section of the Income Tax Act, is that right?

The CHAIRMAN: Plus the potential income tax liability of the estate as such.

Senator CONNOLLY (*Ottawa West*): After the date of death.

Mr. LINTON: Yes.

Senator CONNOLLY (*Ottawa West*): But the plain fact is that that liability for tax on accumulated surplus does lower the value of those shares to a certain extent.

Mr. LINTON: It may and it may not inasmuch as many companies, perhaps most companies, traded in are traded on an earning power basis, in which case this would have a very minor, if any, effect. If it were being sold on the basis of a value of assets in some cases that would no doubt be a factor.

Senator BRUNT: That would be just one factor to be taken into consideration.

The CHAIRMAN: In addition you have to remember the closing price on the stock exchange, and if you have not got a closing price on the stock exchange, the closing bid by a broker or a notation in a journal. These are some of the places you look to get value of shares. There may be cases where these conditions did not exist and then you are thrown back on the fair market value, and then in those specialized classes of cases for controlled companies you are thrown back on the fair market value only. What I would point out is that in arriving at the fair market value you cannot say that the public has reflected the condition of income tax liability, because they are not approached. The public has no chance to fix prices there, and in those circumstances you do take in the factor of income tax or you exclude it or which?

Mr. LINTON: You exclude it.

Senator THORVALDSON: This section 26 would not apply to any case where you get valuation as a result of the stock market?

Mr. LINTON: No.

Senator THORVALDSON: It would just apply in the case of companies whose stock is not listed?

Mr. LINTON: Or one where the control rested with the deceased or which fell under the condition of the section on quoted values that takes that company out of the use of quoted values. The quoted values wherever applicable are not affected by this.

Senator THORVALDSON: Isn't it somewhat confusing in that you have used the words "in any property" because actually the only kind of property you are referring to is shares of companies?

The CHAIRMAN: No.

Mr. LINTON: No, that is not right. There are cases of valuation of pensions and that sort of thing where future income tax is barred by this.

The CHAIRMAN: So there is an occasion where the exclusion of income tax is an element that should be considered in valuation?

Mr. LINTON: That's right, sir.

Mr. HULBIG: Could I interject? I do not want to get involved in the cross-fire you mentioned, Mr. Chairman, but there is another large field, and that is the valuation of pensions.

Senator THORVALDSON: Apparently real estate and tangible assets are largely not affected, but it is limited to shares and pensions and intangibles.

Senator MACDONALD: I want to get clear what the proposal is. As I understand the present Succession Duty Act it is provided that the pension will be reduced to its capitalized value according to mortality tables, and that amount is paid forthwith. Is that right?

The CHAIRMAN: No, that capitalization of the pension is brought into the estate as an asset of the estate.

Senator MACDONALD: And the taxes fixed?

The CHAIRMAN: If there is a taxable estate, yes.

Senator MACDONALD: Now, under this proposal, if I understand your brief, the pension will be capitalized according to the mortality tables, and if the pension is payable for a term, a certain term, say ten years, and then ends, the amount of the tax will be payable in ten annual instalments.

Mr. HULBIG: Yes sir. We have put this on several different levels. We do not believe this should be subject to both income tax and estate tax at all. We should like to avoid estate tax here.

Senator MACDONALD: That is with respect to a pension that is payable for ten years?

Mr. HULBIG: Yes sir.

Senator MACDONALD: Now we come to the pension that is payable for life, and again the capitalized value is ascertained by the application of mortality tables; and do I understand that the payment is of the amount of the tax for which the estate is liable on account of the capitalized value being added to the estate which will be paid throughout the lifetime?

The CHAIRMAN: Yes; you divide the life expectancy into the amount of the tax.

Senator MACDONALD: No, no, that is not it.

The CHAIRMAN: Certainly it is.

Senator MACDONALD: No, it says payment throughout the lifetime.

The CHAIRMAN: But if you have a tax on a pension of $20,000 and the pension is payable for life you have to have a definite figure for that life, so you take that figure from the life expectancy.

Senator MACDONALD: All right, you take that figure from the life expectancy, and this brief bears me out that having ascertained the amount of the tax by virtue of the capitalization of the pension, then it is to be paid in annual instalments. I suppose if the life expectancy is 15 years it would be paid in at least 15 annual instalments and continued throughout the lifetime?

Mr. HULBIG: That is right, sir.

Senator MACDONALD: Throughout the lifetime of the pension?

Mr. HULBIG: That is right, sir. We thought that was only fair. This is to avoid injustice where the value is assessed and where the pensioner died within a year, in which case why should his estate be subject to a liability based on a

life expectancy of 15 years? In other words, we are setting the Government up, in effect, as an insurance company instead of the individual being his own insurer.

Senator MACDONALD: That is all right, I go along with that; and it is obvious —well, I will say it is unfortunate, if a person only lived one year, and they paid tax on the basis they were going to live for fifteen years. But if the mortality tables say fifteen years, why should they continue to pay at the annual rate, if they have to live for another ten years?

Mr. HULBIG: Well, we would be very happy to amend our brief, sir.

Senator MACDONALD: I don't want you to amend your brief.

Mr. HULBIG: In essence, we felt it was reasonable that if the benefit were extended on the percentage basis of each payment the people would be prepared to pay if they outlived their expectancy term—they would take that risk. We are not wedded to this. It was as much as we cared to recommend. We would be very happy to see the Government terminate it once the total original sum was received.

Senator MACDONALD: But that is not your brief. Your brief says it should continue throughout the lifetime of the person receiving the pension.

Mr. HULBIG: That is right. We wanted to make this proposal as reasonable as we could to the Crown, so that they would not lose any money on it.

Senator MACDONALD: May I ask if this is a new proposal?

Mr. HULBIG: No, sir, it is not. It is new in the sense that as far as I know it has not been proposed widely in Canada.

Senator MACDONALD: No, but I mean is it a new suggestion to the Government?

Mr. HULBIG: No, this was suggested before in the original brief. It was not presented in these words, but was presented verbally in the presentation in the chamber at the time we made our representation.

Mr. PAXTON: In Bill 248.

Senator MACDONALD: I do not recall reading that definite suggestion in the proceedings of the committee of the house.

Senator BOUFFARD: They were not allowed to make any representations to the Banking and Commerce Committee in the Commons.

Mr. PAXTON: It is made direct to the Minister, sir, not to the committee.

Senator MACDONALD: I want to know if there had been any public reaction to this suggestion. I do not know if a widow would be prepared to pay for twenty years if she could pay for fifteen years and be through with it.

The CHAIRMAN: Well, I can tell you this, senator, I would go this far that I am sure there is no widow if she were offered the alternative of "paying as you go" as against paying everything now, would not be better off paying as she goes.

Senator MACDONALD: I would go that far with you, but I don't go beyond the 15 years.

The CHAIRMAN: Well, I wouldn't either, as a matter of fact.

Senator HAIG: I want to give the case of a man who works for the Canadian National Railways, who took out an annuity for $5,000 a year. He was 45 years of age. His widow was much older than he was. They made that $5,000 part of his estate. How they figured it out was that she was older than he was, and she lived so many years, and therefore the value was so much. Now, would they take any duty off it at all under your proposition? Did they take out any duty at that time at all?

Mr. HULBIG: The older she was, the shorter would be her life expectancy.

Senator HAIG: They would take the life expectancy of the woman?

Mr. HULBIG: Yes.

Senator HAIG: Is that treated as an asset?

Mr. HULBIG: Yes.

Senator HAIG: And you object to that?

Mr. HULBIG: Well, in that particular case the results might not be so unfortunate.

Senator HAIG: What is your proposition?

Mr. HULBIG: My proposition is this. Say I am 65 years old, my wife is 50; I get a pension, and when I die my wife gets half of it. Let me dream, and say my pension is $10,000 a year, and my wife's is $5,000, starting at age 50 her life expectancy would be probably 30 years. If I left no other estate her inheritance then would be valued at approximately $100,000.

But suppose I left some other estate, for instance, a house that was difficult to sell at that time. Let us say my estate was $200,000. My wife would not get any part of my other $100,000; she would get her own $100,000 by reason the pension of $5,000 a year for 30 years. The estate tax on the estate would be somewhere around $44,000, her half would be $22,000.

Now, she is going to get $5,000 a year, and will have to pay income tax on that amount. Where does she get the money to pay the estate tax on her pension? Our proposal is to spread the estate tax over the period that we say she can expect to receive that money.

Senator HAIG: That is your proposition?

Mr. HULBIG: Yes.

Senator MACDONALD: And to continue until her death?

Mr. HULBIG: Yes.

Mr. J. K. ALLISON: If the beneficiary lives beyond the life expectancy period, the result is that the recipient receives more than was actually calculated on an assumed life expectancy, because the longer she lives the more payments are coming in. While there may be more payments coming in, if it continues to her death, there is that much capital coming into her hands. So, in effect, it is not a direct loss, but a continuing tax deduction based on the assumed mortality of life.

The CHAIRMAN: On a pay-as-you-go policy, with respect to pension payments. If it makes sense in income tax, maybe it will make sense here.

Mr. HULBIG: I may say, Mr. Allison used to work for the tax department.

The CHAIRMAN: Are there any other questions to be asked of Mr. Hulbig?

Mr. HULBIG: Thank you, sir.

The CHAIRMAN: We have a brief filed on behalf of the Trust Companies Association of Canada. Their presentation will be made by Mr. A. R. Courtice.

Mr. A. R. Courtice, Past President, Executive Counsel, Trust Companies Association of Canada: Mr. Chairman and honourable senators, I may say that this brief was prepared rather hurriedly, and we would reserve to ourselves the right to speak to some other things as the occasion may arise. I hope we will be allowed to take that privilege. We also appreciate the opportunity that was given to us to appear before this committee.

The Trust Companies Association of Canada is a national organization, composed of eight regional sections, located in all of the ten provinces. Its 33 member companies represent practically all the corporations that are authorized by statute to administer trusts and estates. They also represent many thousands of clients in all provinces of Canada, who have a direct interest in death taxation.

The value of estates, trusts and agencies assets under administration by the Canadian Trust Companies at the end of 1957 total $5,581,000,000. May I say at the outset that there is no selfish motive in our appearance here. We can do our job of administering estates and trusts no matter what succession duties or estate taxes may be in force, but we submit we are in a better position than anyone else to make a practical assessment of inequities and hardships that beneficiaries may suffer under improvident provisions. We are here to represent those clients, their interests, and also the interests of the public generally. Our motive has been to try to assist the Government to produce an act that will be fair and reasonable both to beneficiaries and to the exchequer, and which will assist in the development and prosperity of Canada.

We welcome the change to the principle of an estates tax, with its simplicity of tax calculation—no question; and also, the elimination of many inequities and hardships that were found in the valuation and payment of life and remainder interests under the present Succession Duty Act. Some of these old inequities, however, still remain, and some new ones have been added.

Personally—I say this with the greatest of respect—I think the Department of Finance and the Department of National Revenue had a little too much to say about the preparation of the new act. I have the greatest respect for these departments: I have known and have dealt with their officials for a long time; no one will speak more highly of them than I will. But we must remember that their interest is in collecting revenue, and in ease of administration, rather than in considering the interests of the beneficiary. That is only natural, because that is their job. Therefore, I say they may have had a little too much to say in the preparation of some of these provisions.

Senator MACDONALD: You are speaking for your organization?

Mr. COURTICE: Yes sir.

Senator MACDONALD: I just wanted to be sure that you were not speaking for the committee.

Senator HAIG: They propose to reduce taxes in the new act.

Senator HOWARD: That is questionable.

Mr. COURTICE: They are reducing taxes, yes, but that does not justify inequities and discriminations, even though the public is paying less.

Senator HAIG: Would you rather have the present Act or what this Bill contains?

Mr. COURTICE: No. I would rather have the proposed Act but with some amendments to it.

Senator HAIG: Yes, but leaving the amendments aside, which of the two measures would you rather have.

Mr. COURTICE: I would rather have the new one, unquestionably. There is no comparison. The Trust Companies Association have pioneered in the estate tax for a long time so it is nothing new. We have advocated it for years and Dr. Eaton will bear me out that we made many representations over the years and he was very sympathetic to us too but he did not have the sole decision, unfortunately, or we would have had an estate tax sooner.

The Minister of Finance did say that he approached this revision very conscientiously and seriously and he did give us a very good hearing on our brief. We presented to him a fairly comprehensive brief of some twenty-three pages and we were given a good reception and a good hearing, and some twelve points out of the thirty-six which were in our submission are recognized in Bill C37—this is a batting average of thirty-three per cent and I presume that might be considered pretty good—but we hardly thought that the results we achieved were quite commensurate with the reception we had received.

We have listened with interest to the submission of the chamber of commerce and we would like to associate ourselves with their presentation. There are many important points covered. You may pardon me if I briefly stress and probably with some repetition some of the points that have been made.

Undoubtedly the most inequitable feature of the bill is section 26 which states, "In determining the value of any property no allowance or deduction shall be made for or on account of income tax." This is an old bugbear that the government refuses to face up to. Granted the difficulty of projecting future income tax into the calculation of capitalized income such as pension payments, for annuities, but this is no justification for a tax on a tax, and reducing the beneficiary's inheritance by assessing succession duty on what is collected by the Income Tax Department.

Unless the government is willing to recognize some practical formula for a reasonable solution to this problem it should eliminate succession duty on these payments and be satisfied with the income tax. That is not so far astray. It is true it is part of a man's assets but it is in a different category. A pension is something he has provided for, in conjunction with his employer, and usually by making contributions, that he is to receive a certain pension during his lifetime. Now, instead of taking that full pension he decides to take less in order to provide that his wife may receive that pension during the remainder of her lifetime if she survives him.

What is the situation? He pays income tax on income he receives but on his death immediately that pension is hit with the impact of income tax and succession duty. That does not seem reasonable. As a successor the widow may not, as has been pointed out, get enough in those first few years to pay tax on it and she must pay the tax on her whole life expectancy even though she survives her husband only for one or two years. We have dwelt on that but I do not think it is out of the way to emphasize it because it is the most inequitable provision in the present act and it was also in the old act.

It may be that there will have to be an arbitrary formula devised. You cannot approach this scientifically and say what it should be exactly, but why should the poor widow be the one to suffer and take the gamble. The government says that on a life expectancy basis some die later and some earlier but the average works out to the expectancy tables. That is alright for the government. They average out in many cases but the poor widow is not able to average it out. She has to pay the tax on her whole life expectancy so the government is making the widow take the gamble. I do not think that is fair.

In this way the government has over the years taken a lot of money from widows by taxing benefits they never received and surely that statement should stand on its own without further comment.

We were disappointed that an optional valuation date was not included. The value at the date of death may sound reasonable in theory but an executor has no opportunity to realize those values at the date of death and you know what can happen on a declining market. There are tragic cases on record. In most cases it is three to six months before probate is granted and the executor is in a position to realize on the assets, and so it would only seem reasonable that there should be some flexibility in the time for determining the value of the estate.

The department, for reasons of administration, did not want to get into a more complicated system and it is a bit more complicated when you have optional dates but ease of administration I submit should not be the only consideration.

We are grateful to the Chamber of Commerce for its appreciation of the executor's position in being entitled to a certificate of discharge when he has completed payment of duty, subject of course to misrepresentation or fraud.

In Bill C-37 however, an executor cannot safely distribute until after four years and even then he never gets a complete discharge. That is not reasonable and the Chamber of Commerce as businessmen realize that that is not in the interest of good estate administration.

Senator MACDONALD: When does he get a discharge?

Mr. COURTICE: He never gets a discharge under this bill.

Senator MACDONALD: But I am speaking about the Succession Duty Act. When does he get a discharge under that?

Mr. COURTICE: When the duty is paid.

Senator MACDONALD: So in six months he can get a discharge?

Mr. COURTICE: Subject to misrepresentation or fraud.

Senator HAIG: If we assume that the estate is composed of securities, and that within a short time after the death there is a rise in the market and a huge profit is made, as has been done in many cases in the last five or ten years. Who gets the profit there?

Mr. COURTICE: It is an optional election, whether you take the date of death or six months from the date of death to have your value assessed.

The CHAIRMAN: There is something more there. It is, if there is a sale in the period then you take the sale price. So the government comes in on any advance.

Mr. COURTICE: That is right, any sale that takes place between the two periods will be taken into the valuation of the estate on that basis.

Senator MACDONALD: When do you make your declaration?

Mr. COURTICE: You can only do that at the end of the period. You reserve the right until the last date and then you have to declare the period you want taken.

Senator MACDONALD: Then there would be some delay in arriving at the assessment?

The CHAIRMAN: The tax must be paid in six months. If you had a six months period after death as an optional period for valuation the whole determination would be made in the six months.

Senator MACDONALD: But they would have to assess it after the six month period had elapsed.

The CHAIRMAN: The government gets the money as soon as the return is made, within six months.

Senator MACDONALD: But it is going to take the department some time to arrive at the assessment after the option is taken.

Senator BRUNT: But in the meantime you pay interest on it.

Senator MACDONALD: But nevertheless there will be a delay in arriving at the final assessment, will there not?

The CHAIRMAN: The department is supposed to deliver the assessment forthwith or as soon as possible.

Senator MACDONALD: I know but it must be obvious that if the election is made at the end of six months the department cannot make its assessment until some little time after that. It might even take another six months.

Senator BOUFFARD: The tax has to be paid at the end of six months and if they do not pay it in full then they pay interest on the balance.

Senator MACDONALD: Yes, but under the optional system the department cannot assess until sometime after the end of six months.

Senator BRUNT: That is right and it won't take long because they would only have to put in the value. Everything else would be settled.

Senator MACDONALD: Then I suppose we would have to extend the time for a year.

Senator CROLL: The only thing, under this section the Government cannot win. That I can see.

Senator BRUNT: Oh, yes, they can; if the securities are sold in the six months' period at more than they were worth at the date of death, the Government wins.

Mr. COURTICE: The Government gets the increased tax on the value if they are sold.

The CHAIRMAN: They are going to have to sell to pay duty.

Senator CROLL: You do not have to sell until the six months' period has expired.

Senator MACDONALD: I want to get this thing cleared up. A person with real estate has six months to declare. Declare what? What the value is to be?

Mr. COURTICE: The fair market value.

Senator MACDONALD: Well, there is no option there.

Mr. COURTICE: They can declare the fair market value as at the date of death or six months from date of death.

Senator MACDONALD: At the end of six months after death they have to fix the fair market value. The valuators cannot fix it before, because they don't know what the man is going to do. So there is going to be a considerable delay there.

The CHAIRMAN: Is that a horrible thought?

Senator MACDONALD: No, I did not say anything about a horrible thought. But I think we should understand what the change in the act would entail. It may be all right to extend it for another six months, but we want to know what we are doing. That is all I am bringing up.

Mr. COURTICE: Would it not be preferable to pay duty on an asset that has greatly declined in value at the time you realize it?

Senator MACDONALD: I am not arguing whether it is preferable or not. I am just bringing up the fact that there will be some delay. That was my first statement; and all this has come out of it.

Senator CROLL: I agree that if the stock was worth $70,000 at the time he died, and it fell to $30,000 afterwards, you have everything going for you. But if the real estate at the time of death is worth $10,000, and six months later, let us say in the case of lots outside of Toronto, it has risen to $20,000, no sale is made, the six months' period is expired, it is put in at $10,000, and two days after the property is sold for $20,000, he is riding free. It may not be unfair in individual cases.

Mr. COURTICE: If an estate is wiped out, as in the last depression, a million dollar estate was practically liquidated for nothing, you have a tragedy.

Senator CROLL: I agree, but you can't legislate against all hardships.

Mr. COURTICE: That is a reasonable delay, which allows some flexibility, because the executor cannot realize at the dates you fix the valuation. Surely the value should not be fixed before you have a chance to sell.

Senator CROLL: What have executors been doing up to now?

Mr. COURTICE: They have been taking the market as it is.

Senator CROLL: Everybody has been coming here today saying what nice guys we have in the department, how easy it is to co-operate with them, and "we have no trouble".

Mr. COURTICE: It has been working very well in the United States. It has been in effect for some time. You have the option of either the date of death or one year after date of death. It has had a practical test. It is not theory.

Senator CROLL: What is bothering me is, you are telling the story so appealingly; I would like to hear the other side of it. I may not hear it for two days.

The CHAIRMAN: You will hear it tomorrow.

Senator CROLL: Because there is another side to it.

The CHAIRMAN: I thought you were telling us the other side.

Senator CROLL: Not completely.

Senator BOUFFARD: A good part of it, anyway.

Mr. COURTICE: We also note that, in computing taxable value, when you deduct for funeral expenses, Surrogate Court and probate fees, you are not allowed to make deductions for executors' and solicitors' fees, which are controlled by the courts. You would think that succession duties should not be levied on any proper administrative expenses.

Senator CROLL: I am in your corner now.

Mr. COURTICE: It took a little while, sir.

Section 9 shows a definite discrimination against Ontario and Quebec. This appears in our brief. There are only three points, really, set out in that brief; and this appeared so unreasonable, when we were reviewing the act, that, in commenting on it in our brief to the Government we said it was obviously an oversight which of course would be corrected. We were wrong; apparently they really meant it.

The CHAIRMAN: No doubt about it.

Mr. COURTICE: The section allows the same credit to Ontario and Quebec as in the present act that is 50 per cent of the federal tax in respect of provincial duties paid on the same assets, but it denies this credit for duty paid on assets deemed to be situated in another province, but taxable by Ontario on a transmission; whereas if the situation is reversed, and that other province taxes assets similarly situated in Ontario, it is allowed the credit. Obviously there is something wrong there.

Senator CROLL: That is up to Ontario and Quebec to correct, not us.

Mr. COURTICE: I would go along with you up to a point. But when the dominion says, "When British Columbia taxes an asset in Ontario we will allow that credit, but we won't similarly allow a credit for Ontario, if it has to pay a tax in British Columbia"—

Senator BOUFFARD: That is right.

Mr. COURTICE: It should work both ways. Something is obviously wrong. Let us take that one step further. I think the issue is still further beclouded if an Ontario decedent has personal property outside Canada on which an Ontario tax is payable, credit is allowed. In other words, you allow a credit to a United States jurisdiction, but you will not allow the same credit in another province outside the two prescribed provinces of Ontario and Quebec.

Senator MACDONALD: What is the reason for that?

The CHAIRMAN: I don't know.

Senator MACDONALD: I am asking the witness.

Mr. COURTICE: I am not the one to answer. I can only point to the injustice. I don't know why you would want to do an injustice.

Senator MACDONALD: This has been considered before, has it not?

Mr. COURTICE: No, this is a new provision, brand new in the present bill. It was not in the present act.

Senator MACDONALD: You do not know, why the distinction?

Mr. COURTICE: No. You may find out tomorrow.

Senator CROLL: It was not in Bill 248.

Mr. COURTICE: Yes it was.

Senator CROLL: And then you went up and made representations to the minister and the others. What did they say to you when you made these representations?

Mr. COURTICE: We got a very sympathetic hearing, but they did not commit themselves.

Senator CROLL: But what were their arguments in favour of it?

Mr. COURTICE: They didn't mention them.

Senator LEONARD: I think the suggestion is that because the dominion Government made a deal with British Columbia and the other provinces, that the dominion Government is already making an allowance for the tax that is being levied on those British Columbia assets of Ontario residents. However, what I think they have overlooked is that when the dominion act came into effect both British Columbia and Ontario were taxing those assets. There was double taxation and while the dominion made a deal with British Columbia as to its tax on such assets, it has not made any deal on Ontario's tax on the same assets so that there is now actually double taxation and the deal that the federal Government made with British Columbia should not affect Ontario's right to tax that asset, nor the allowance the dominion makes for such tax.

The CHAIRMAN: The present law is that a taxpayer who is in Ontario gets a 50 per cent credit in relation to dominion taxes to the extent of property on which provincial taxes have been paid. Now, under the bill the basis of allowance in Ontario and Quebec is situs, so to the extent you have property that is being taxed because the transmission tax applies in Ontario, but the situs of the property is not in Ontario, the credit is going to be less than 50 per cent. So it is something less than what you have got under the present law.

Senator MACDONALD: But it is something.

The CHAIRMAN: Of course it is; if it is 40 per cent it remains 40 per cent. All I am saying is that you cannot represent you are giving some provincial credit if you are not.

Senator MACDONALD: I am glad that somebody has explained the reason why it is being done, not that I approve of it. There must have been some reason behind it.

Senator CROLL: The reason behind it is that the tax sharing agreement between the dominion and the provinces is as simple as that, and Ontario and Quebec can correct it.

Senator BOUFFARD: They shouldn't have to do it by giving up their succession duty tax, which Ontario and Quebec are not ready to do.

The CHAIRMAN: No, you should not visit on the deceased persons and their dependants the decision of Ontario and Quebec not to join. Why swing the stick on the small fellow?

Senator CROLL: The small fellow hasn't too many of these bonds in safety deposit boxes. Don't worry about him.

Mr. COURTICE: Did you see our example on page 2 to show how finely you can draw the line? This is the example:

> "...if an Ontario domiciled decedent has bearer bonds of say, the province of British Columbia, in a safety deposit box in Ontario, those

assets are deemed, on the definition of situs, to be in Ontario, and therefore, the full allowance on Dominion duty is allowed. If, however, the same bonds of British Columbia were situated in the same safety deposit box in Ontario, but in registered form, the situs would thus be considered to be in British Columbia, and there would not be any corresponding allowance on Dominion duties of 50 per cent of the amount paid to Ontario by reason of those assets being in existence. Whereas, if a British Columbia decedent dies domiciled in that province, with assets deemed to have an Ontario situs, the Ontario duty is taken into consideration in calculating the allowance on Dominion duty."

That seems to be a pretty technical discrimination.

Senator THORVALDSON: You can overcome that by arranging the situs of your assets. You can arrange not to be discriminated against by arranging your situs.

The CHAIRMAN: But I have heard it said that the law should not discriminate, rather than the individual should so organize himself to avoid the discrimination of the law.

Senator THORVALDSON: What I meant to say here is that an individual can organize himself.

The CHAIRMAN: But they all don't know about it.

Mr. COURTICE: The senator comes from a province other than Ontario or Quebec. Now, with respect to the taxation of real estate outside of Canada, this has been dealt with and I want to pass over it very briefly. That is a new departure and yet one cannot quarrel with a new departure if there is reason for it. Mr. Fleming has said why it has grown up over the years that personal property can be taxed but it is hands off with respect to real estate. You might say that they are obsolete factors which would deem it could only be properly dealt with in the jurisdiction in which it was located. But the world has shrunk since then. There has been a great deal of travel, and easy transportation and other factors have changed the old situation.

Senator MACDONALD: You don't object, then, to adding the value of foreign real estate to the capital of the estate?

Senator HOWARD: Certainly; you just double your tax nearly.

Senator MACDONALD: I am not arguing the case for or against. Every time I ask a question somebody thinks I am holding a brief of some kind. I wish the Chairman would point out that I have an entirely open mind on this.

The CHAIRMAN: Gentlemen of the committee, Senator Macdonald asks me to tell you that he has a completely open mind.

Mr. COURTICE: Senator Leonard pointed out that—

Senator CONNOLLY (*Ottawa West*): Mr. Courtice, would you like to answer the question asked by Senator Macdonald?

Mr. COURTICE: What was the question again?

Senator MACDONALD: I asked whether the organization which you represent is not opposed to having the value of foreign real estate taken into consideration when arriving at the total value of the estate?

Mr. COURTICE: I think they would answer it this way, senator. In principle and in theory they would think that real estate should be taxed but because of difficulties as to conventions and other factors it might be rather premature to do that now, particularly if other governments reciprocate and commence to tax real estate in Canada. Then it will be a question on balance whether you are going to gain more by the new provision or by leaving it as it is. It would be difficult to tell now which side would favour the revenue position.

Senator ASELTINE: The Minister dealt with that.

Senator MACDONALD: No, but I was asking the witness his view.

Senator ASELTINE: He doesn't give you any view.

Senator CROLL: Yes, he does.

Mr. COURTICE: I would say if you can estimate which is going to be more beneficial to Canada, we will be on that side.

Senator CROLL: Don't you think the minister is the best judge of what will bring revenue to Canada? Don't you think he is in a better position than any of the rest of us?

Mr. COURTICE: I would certainly respect his point of view but there are a lot of factors involved in the introduction of foreign capital in the development of Canada.

Senator CROLL: Yes, but he would be concerned with that.

Mr. COURTICE: Oh, yes, he would be.

Senator LAMBERT: Are you willing to accept Senator Croll's view that the Minister is in a better position than anyone else to judge?

Senator MACDONALD: That is what I would like to know.

Senator CROLL: I should think the Minister, with his staff and his ability to obtain information, is in a better position than any of the rest of us to give a view where it lies.

Senator MACDONALD: Does that apply to all other clauses?

Senator CROLL: No, just on that particular point as to whether we will have more or less capital as a result of that; whether this is beneficial or not.

Mr. COURTICE: We were also disappointed that the Government did not take advantage of this opportunity to give recognition to the marital deduction. The deduction proposed for a widow and young children is generous in an estate of moderate size but it gives no recognition to the fact that the creation of an estate is a partnership between husband and wife, as does the marital deduction in the United States Federal Estate Tax Act where one-half of an estate may pass to the spouse tax free. You may note here that a husband does not have to be senile or falling apart at the seams in order to rank on an equal basis with a widow in this respect.

Senator ASELTINE: What about a second marriage?

The CHAIRMAN: The problem does not arise.

Senator ASELTINE: Sure it does.

The CHAIRMAN: We will go into that later.

Senator BRUNT: Does a second marriage make you old and senile?

Mr. COURTICE: This concession was made in the United States to equalize the advantages that women enjoyed in some of those states where there was community of property. Canada has a direct parallel with this in the province of Quebec. Is it reasonable that because a husband has died a tax must be paid to the Government to enable the widow to enjoy what she has done so much to create and to preserve? That is why we think it is to be regretted that Bill C-37 did not take the opportunity in line with modern thinking to recognize the direct relationship of the wife's contribution to the family fortune. In the United States the wife's half-interest can be put in trust for her provided she is given a general power of appointment over it. So any question that it might be spent foolishly does not occur, it can still be in trust for her provided she has a general power of appointment over it. The only people with whom it would not be popular would appear to be bachelors and spinsters, and it would

cost the exchequer very little. I think this is an important point because in many cases only the duty would be postponed until the death of the widow when her half would be passed on to the children.

Senator MACDONALD: The tax would not be as great.

Senator BRUNT: The rate would not be as high.

Senator MACDONALD: The rate would not be as high because it would only be on half the estate.

Mr. COURTICE: That is right, it would not be as high. We are not trying to argue that you will come out equal in revenue, but we are trying to say that we think that the merits of the case far outweigh any loss in revenue that might occur.

Now, the Government did go a long way in connection with the home, and they accepted the principle where there was joint ownership, but we should like to have seen that principle extended to a larger part of the whole estate, and we think it would be reasonable to do so.

Senator BOUFFARD: Would you put a ceiling on that?

Mr. COURTICE: The half.

Senator BOUFFARD: The complete half?

Mr. COURTICE: Half of the estate. The same as community of property in the province of Quebec.

Senator HAIG: There is no tax on that half?

Mr. COURTICE: No tax in passing to her, no.

Senator HAIG: If she died there would be no tax on that amount?

Mr. COURTICE: Oh, yes, there would be upon her death.

There is one last reference I would like to make on the question of domicile, and it is only in Part II, where one domiciled outside of Canada is treated, as the Minister pointed out, on a flat basis of 15 per cent. Again, this is for ease of administration and this has some value. But the problem there is that they allow no deductions or allowances for a wife and children. There were in the 1951 census over two million people in Canada who had been born in foreign countries, and the problem is growing. We have many United States citizens here with American subsidiaries and they are acquiring various estates, some very substantial. A person domiciled in the United States may pay $15,000 tax on $100,000 in Canada, whereas a Canadian with a $100,000 estate, where there is a wife and four children, would have no tax whatever paid on it. Now, you have to conjecture again to what extent this ease of administration is going to discourage the investment in Canada of these people, and if they are going to leave their money in Canada under those circumstances, or whether they are going to send it home.

Mr. Chairman, I thank you very much for your very good hearing. Mr. Godwin, of the Crown Trust Company, is here, associated with me in this presentation, and if there is anything we can do further to assist your investigation we shall be only too glad to do so.

The CHAIRMAN: Do you wish to make any representation, Mr. Godwin?

Mr. GODWIN: No, thank you. Mr. Courtice has pretty well expressed our point of view.

The CHAIRMAN: We have several representatives of women's organizations here, and also the Canadian Life Officers Association. Are the women's organizations ready at this time to say something? Mrs. Gilleand, would you care to speak first for the Canadian Federation of University Women?

Mrs. W. W. Gilleand, Vice-President, Canadian Federation of University Women.

Mr. Chairman, Honourable Senators: Our brief was presented to honourable senators and members of the house, I think, on the morning of the day on which the committee of the other house sat. Our chairman of the Canadian Committee on Status of Women on Saturday last left our eight day long triennial conference in Montreal for holiday, and I had no chance to get another 40 or 50 copies of the brief available for you this afternoon. However, you have them, and I hope you will look over them after I have said what I propose to say.

In the first place, in the most recent submission which went to the members of both houses, and to the Minister of Finance, the Prime Minister, and the Minister of National Revenue, etc., we outlined in roughly a three-page brief the point that we have seen pursuing for a long time, namely, that there should be a $50,000 exemption. The president, Mrs. Finlayson, is here today, representing the National Council of Women, I believe, and we have talked this over, and to save repetition she is going to deal with that point. So I will begin at a later point in our submission. But first, I am sure you will recall, and everybody else I think is too conscious of this, that when Bill 248 come out we had lots of time to look it over and see how it differed from the Dominion Succession Duty Act, and we began our study of this in 1952 or so, and therefor have been at it for six years, which is perhaps as long as you have. We did not have a great deal of time after Bill C-37 was introduced, so it has been a scramble.

I would like to comment on two or three points in Bill C-37 that I can say please the women within the Federation of University Women, and as well several other organizations which have endorsed our representations.

Although the section in the bill does not specifically say that it is to benefit the wife, nor can the wording as I see it conveniently say it, we would like to see it. I refer to the term "joint tenancy", or the term which relates to it, which means that only half of the value of the house is considered as belonging to the husband for succession duty purposes; therefore, presumably in most cases the other half of the house would be considered as belonging to the wife, even though it does not specify it is because of a husband and wife relationship. It does specify joint tenancy as such; therefore, as this would benefit the wife, we are in favour of it.

Point number two concerns the question of the husband's gifts to his wife for the use of buying an insurance policy. Such an insurance policy would be considered part of the husband's estate, and does not put a limit on the use to which that gift is put. We like that provision, even though again it does not specify that it is because of the husband and wife partnership.

Those are two things we are particularly pleased about. There is one other matter that we are only partially happy about, and I will come to it later.

I was much interested in the discussion that took place here about the capitalization of pensions, because this is one phase of the matter that has concerned our organizations for a long while. Our concern arises from the fact that often a widow does not have enough money to pay the succession duties. The pension provides so much income for her, and she had four years in which to pay the succession duties; but very often the pension does not provide the total amount that is required to be paid under the Succession Duties Act.

So, in support of the submissions that were made in that respect, may I say that that was one of our first points in our 1953 brief to the Government. This is something we have had an opportunity to know about, because over the five-year period that we have been interested in this subject, we have had scores—maybe hundreds—of cases drawn to our attention where that particular

provision caused great hardship. And as for paying tax on money that we don't receive, we are against it, absolutely and completely! If we do not receive the pension we do not want to pay taxes on it. Let there be no doubt about our thinking on that point.

I was very pleased indeed to hear the representations made by the previous speaker. We know that the trust companies have for a long time been making representations to the same effect as we have, as regards half of the estate being considered as belonging to the wife, for succession duty purposes, or estate tax purposes. In our last letter that went to the Government—

Senator MACDONALD: Has that been distributed?

Mrs. GILLEAND: The senators have it and the Members of the House of Commons have it. We say the Government has long recognized the effect of the wife's work inside and outside the home on her husband's earning potential. Indeed provisions of the Veterans' Land Act have led to the saying that "a man may farm as much land as his wife can work". If the Estate Tax Act fails to extend partnership recognition to married women they will be forced to conclude, as they now suspect, that Government is prepared to recognize their status in the partnership of marriage only when it means for Government an increase in revenue or in security for it. When such recognition involves a loss of revenue or even a temporary loss of revenue married women are to be not partners but chattels.

All Canadian women are proud of our Government's leadership in recognition of our status in the community. The Prime Minister's announced policy is inconsistent with discrimination in any form. Yet, the Estate Tax Act, as it now stands, continues the discrimination of the Succession Duty Act against married women in the home—against the most defenceless type of worker.

Referring only briefly to the remarks that were made by the last speaker relating to Quebec exemptions, I would like to make an extra point in that connection. You know as well as I do that only those widows in Quebec who were married under community of property currently have, and who under Bill C-37 will continue to have, an exemption of $100,000. Those who are married with separation as to property, do not have it. The Prime Minister, the Government, and everyone knows that we are not asking at this point, nor in the foreseeable future, for community of property for Canadian women. We are asking for nothing as respects ownership, but rather in the aggregate tax on the husband's estate, that recognition be given to the fact that half of it was earned by the wife. We know perfectly well that there are bad husbands and bad wives—personally I don't know any of either.

Senator ASELTINE: Would you include the second wife in that category, if she had nothing to do with earning the property?

Mrs. GILLEAND: I don't know whether I would or not. I would like the chairman to inform me on this point. In considering it as an estate tax, we would just go along with it; so, the second wife does not come into the picture. Is that so?

The CHAIRMAN: She is the only wife there.

Mrs. GILLEAND: I am speaking of myself, as the first wife. Really, I don't care what happens to the second wife. By way of principle, I don't know how this would operate, and perhaps I should just say I don't know. But I have no discrimination in my mind as to the second wife as against the first wife. We are asking that proper recognition be given to the work the wife does in the running of the home, the looking after of accounts, paying of bills, bringing up children and many other things, and that half the estate be considered hers at the moment her husband dies.

Senator BOUFFARD: Is it a condition that the husband make a will to his wife?

Mrs. GILLEAND: Yes; otherwise it would be community of property.

Senator BOUFFARD: No.

Senator BRUNT: If he leaves it to his sister, for instance, that does not apply.

Senator BOUFFARD: That would apply only in the case where he leaves the assets to his wife.

Mrs. GILLEAND: Yes, that would have to be a condition.

Senator MACDONALD: What if he doesn't leave a will?

The CHAIRMAN: Then the estate is divided according to the law.

Senator BOUFFARD: In any event it would not apply unless she got the full amount, and that would be exempt from taxation?

Mrs. GILLEAND: The other thing I would like to point out to you is right now there is the exemption of $50,000.00, below which no estate will be taxed; and in the bill there are certain exemptions: $60,000.00 if there is a spouse, whether she gets the estate or not, and $10,000.00 for each child up to four children.

Senator ASELTINE: Is that not a good thing?

Mrs. GILLEAND: So that you could have presently an exemption which covers $100,000.00, couldn't you?

Senator CROLL: Yes.

Mrs. GILLEAND: But the thing we want to point out is why is this? We are asking for recognition of what the wife does, and yet our children have a $10,000.00 a piece exemption but they do not contribute to the assets of the estate, and I must point out that the wife does. Of course it is nice to have that $10,000.00 a piece for the children, all four children, and if the wife's exemption came out to the same amount it would be a token recognition of the contribution which the wife makes to the estate.

Senator ASELTINE: I would like to ask the witness if she has read the present succession duty act?

Mrs. GILLEAND: Yes I have.

Senator ASELTINE: Have you read the bill before us?

Mrs. GILLEAND: Yes, I have read Bill 248 and C-37.

Senator ASELTINE: Don't you think this bill is a big improvement over the others.

Mrs. GILLEAND: Yes I do, Senator Aseltine.

Senator ASELTINE: And are you in favour of it as far as it goes?

Mrs. GILLEAND: That is right, but it just does not go far enough, and really, specifically, it does not do anything to recognize the wife's contribution except in an indirect way. Now I am not crying about that, I am only pointing it out, and I want to point out one other thing,—this exemption of $40,000.00 if the husband survives and $60,000.00 if the wife survives does not please us at all. We believe this was set up this way to please us and yet it does not because this is not equality and all the women's organizations are dead set on equality. What is more we think it is perfectly awful that a widower should have a tag put on that, that that $40,000.00 should be tagged with infirmity plus dependent children because that means practically nobody is ever going to benefit by it. I know the government has tried to do something in this specific way to please us women and I want you to know we are not pleased with the way it is done. We want equality, we do not want preferential treatment.

Senator BRUNT: We are all for you.

The CHAIRMAN: Have you completed your presentation Mrs. Gilleand?

Mrs. GILLEAND: Yes, Mr. Chairman, and I wish to thank the committee very much.

The CHAIRMAN: Mrs. Flaherty, were you going to add anything to what Mrs. Gilleand said.

Mrs. J. F. Flaherty, Executive of the Canadian Federation of University Women, called.

The CHAIRMAN: You may proceed, Mrs. Flaherty.

Mrs. FLAHERTY: Mr. Chairman and honourable senators, I have not much to add to the submissions that have already been made by my colleague, Mrs. Gilleand, the trust companies, as well as the Chamber of Commerce.

We were very pleased to have the trust companies advocate the recognition of the marriage partnership and we would like to point out that in certain laws under which we operate in Canada the marriage partnership is recognized for what can be got out of it for the protection of the government; it is recognized in the Veterans Land Act, the War Veterans Allowance Act, the Small Loans Act and the National Housing Act. In some cases the wife is required to sign if her hubsand wants a loan and she is equally liable for the debt which he contracts when he wants a property. Under the Small Loans Act the wife signs an application for a loan. Under the National Housing Act amendment brought in in 1955, the wife there too is liable when her husband takes out a loan—she has to bear an equal burden.

Senator MACDONALD: Does she not become the owner of half the property? They must be joint tenants?

The CHAIRMAN: Not necessarily.

Senator CROLL: No, of course not, what she signs is a covenant under the National Housing Act.

The CHAIRMAN: She signs a covenant only.

Senator MACDONALD: She signs a covenant but is it not a joint ownership?

Senator CROLL: No, it is merely a covenant.

Mrs. FLAHERTY: In any case these acts recognize that the wife is equally responsible with her husband. Her signature is required too, yet, when the husband dies the government regards the whole estate as belonging to the husband.

Our contention is that the wife has assisted her husband in earning that money. They, together, built up that estate. It is not a question of what you have done and what I have done. It is a case of what we have done. Suppose for instance that a husband and wife buy a car together. When it comes to assessing the husband's estate the car is regarded as belonging to the husband. Today, especially when there are so many married women working the wife on the way home from the office probably drops in and spends her pay cheque on the groceries that enables the husband to put his money into bonds.

Senator HAIG: But they don't do it.

Mrs. FLAHERTY: He puts it into savings, shall we say. That is money that the husband does not spend but what the wife has spent her money on does not show when it comes to settling up the estate. The things that are there are the things that have been contributed by the husband and the wife is required to prove that she has bought certain things with money that she earned herself in order to have the value of those items regarded as not being part of her husband's estate.

Senator MACDONALD: Is your main argument not to cover the case not where a woman has been working but where the husband and wife lived together many years and she looked after the home and brought up the children.

Mrs. FLAHERTY: There are two kinds of contributions that the wife can make, money contributions in the one case and in other cases the intangible ones, setting up a home so that her husband can have peace and quiet to enable him to go out the next day and do a good job.

Senator MACDONALD: Generally speaking that is the basis of your argument?

Mrs. FLAHERTY: Yes, but we are also thinking of the increased number of married women in the labour force today, and we would not like to have them feel that they have to put their money in a separate bank account so that it is separate from her husband's money, we would like to have it, so that it is our contribution. We also pointed out in an earlier brief that even for an estate of $75,000.00 we have been asking for a direct exemption of $50,000.00. But, if, as suggested by the Montreal Trust Company in 1951, the true exemptions had been $75,000, it would have made a difference of less than one per cent of the total revenues of the Government of Canada; and we feel that a tax which is of such small importance in the whole revenue for the nation could surely be made less unfair for Canadian widows.

Senator MACDONALD: Let me get this straight. You ask for a true exemption of $50,000.

Mrs. FLAHERTY: Yes.

The CHAIRMAN: You have that now.

Senator MACDONALD: I would like to get it from the witness. ...My question is: you want a true exemption of $50,000?

Mrs. FLAHERTY: Yes.

Senator MACDONALD: Have you got it in this bill?

Mrs. FLAHERTY: No. What we have under this bill is that no estate under $50,000 is taxable—that is what we had in the other bill—but once the estate goes over $50,000, part of it is taxable.

Senator MACDONALD: Where it is the case of a widow.

Senator HAIG: Not very much of it.

The CHAIRMAN: It depends on the size of the estate.

Senator MACDONALD: If I understand this bill correctly, if a man dies his widow gets a true exemption of $60,000.

Mrs. FLAHERTY: Yes. In the case of a widower he gets an exemption of $40,000. So we feel it is a tax on thrift. If you are careful and save your money, and your estate is over $50,000, you are to be taxed: if you spend your money and leave an estate of $49,000 there is no tax on it.

Senator MACDONALD: That is, the widower. If a widower leaves an estate of not over $49,000 there is an exemption of $49,000—is that correct—under this bill?

Mrs. FLAHERTY: Well, there is an exemption up to $50,000.

Senator MACDONALD: But if the man is married, then there is an exemption of $60,000?

Mrs. FLAHERTY: Yes.

Senatory MACDONALD: I am just trying to get your point of view. Would you prefer to have a true exemption of $50,000 and not have $40,000 in one instance and $60,000 in the other?

Mrs. FLAHERTY: Well, we would like to feel that the Government was allowing the $60,000 because they are recognizing the marriage partnership. But in the same case we feel that a husband should not be penalized, should not have to be infirm and have a dependent child in order to get the same benefits.

Senator ASELTINE: But in the case the wife would die first, she would have to have a lot of property to have over $50,000.

Mrs. FLAHERTY: Yes, we feel that statistics show that, although it is not specified, that this bill applies much more often to women than to men, because the women live longer, and therefore there are far more widows who are affected by the estate tax than there are men. That is why, when people talk about succession duties and estate taxes, they usually feel it is the widow who is going to have to suffer under an estate tax.

Senator THORVALDSON: You do not suffer as much under this bill as under the act.

Mrs. FLAHERTY: Not so much. But inflation is growing. An estate of $60,000 is really not worth much more than $40,000, was, when the amount of $50,000 was set as an exemption in 1941.

I do not know whether this is within my rights, but I had a question I wanted to ask from one of the officials who are here from the department.

The CHAIRMAN: You tell us what the question is, and we will see.

Mrs. FLAHERTY: It was in connection with pensions. I do not want to go into the question of pensions, but I was wondering why, when such strong submissions had been made to exempt pensions from tax, is the reason for the tax on pensions that, knowing there will be a pension, a man might spend more of his income and therefore leave a small estate, so that it would result in less taxes for the Government?

The CHAIRMAN: I don't think that was the reason. I think they were taxable and they left them taxable.

Mrs. FLAHERTY: I see. The pension capitalization, we feel too, as the Chamber of Commerce said, may work a hardship when it is capitalized, and a woman may be paying tax on money which she does not receive. Thank you very much.

The CHAIRMAN: We have Mrs. Finlayson here, First Vice-President of the National Council of Women.

Mrs. G. D. FINLAYSON: Mr. Chairman and honourable senators, I want to tell you that we are very pleased to be asked to come to this committee and present our views. I was asked really as the Chairman of the Canadian Committee on the Status of Women, but I am also Vice-President of the National Council of Women, and I have instructions from Mrs. Rex Eaton, who is the President, to say that the National Council of Women fully supports the presentation made by the Canadian Federation of University Women, which is one of our members; and representations on this subject have been made for at least 10 years by the National Council of Women.

We are very pleased, Mr. Chairman, to hear the presentations made by the Chamber of Commerce, and the trust company. They presented arguments on some of the very points which have been of great concern to us, and I do not need to repeat those, for that reason.

I might speak for just a few minutes on the request which has been made for what we call a true exemption of $50,000, and by that we mean that the $50,000 exemption should apply to every estate before they commence to calculate the duty or the tax. We know that under the Succession Duty Act, and under this proposed bill, a net estate of $50,000 or under will pay no tax, but we do mean, by "true exemption" a $50,000 exemption on any estate.

This new bill, we know, gives exemption of $40,000 on any estate, and we are very pleased with that. So now we have Bill 248, which was an improvement over the Succession Duty Act, and we have C-47, which is an improvement over 248, and we are very glad of this, even if we have got all we asked for; and one of the things we asked for was a $50,000 exemption on every estate.

We cannot get figures—we recognize the Government has to have revenue —on exactly what reduction of revenue it would mean if the exemption was made $50,000 on every estate instead of $40,000. I suppose that the Department of National Revenue has calculated how much it would lose if the exemption was $50,000 instead of $40,000. But those figures are not available to outsiders. We would go so far as to be willing to accept a little higher rate of taxation on the part of an estate that is over $50,000 in order to make up that loss of revenue, because we don't think it would be very much.

I might refer again to the figures that Mrs. Flaherty spoke of when the President of the Montreal Trust Company, in an annual meeting of shareholders, said he would advocate an exemption of $75,000 on every estate. I think he was using figures of about the year 1951 or 1952 and he said that if that exemption had applied at that time there would have been a reduction of 36 per cent in the number of taxable assets but there would have been a reduction of revenue of tax collected of only 6 per cent. So it would not have been a very serious matter at that time, and we might point out that if there was a reduction in over one-third of the number of estates valued and taxed, possibly there could have been a reduction in the staff employed to do this work. There would have been a small saving there.

In further support of our request for $50,000, I would just mention that we all know the value of money has decreased in the last 10 years, that the cost of living has gone up, and if a $50,000 estate was made not subject to taxation in 1948, a comparable figure now, based on the increase in the cost of living since then, would be at least 25 per cent more, and that would be over $60,000 we might be asking for instead of continuing to ask for $50,000. That, Mr. Chairman, is chiefly our basis for argument on the subject.

As I said before, we are very pleased that joint tenancy was recognized and the section in Bill 248 that was going to make life insurance taxable in a man's estate if he had given the money to some member of his family, presumably his wife, to buy a policy on his life, has been deleted and this can now be done. I really think it was not a serious matter, for the number of cases where a husband will give a wife money to take out a policy on his life would be few. However, it is a recognition of the fact that there can be gifts between husbands and wives, and so on.

We strongly support the contention of the previous speakers, and the trust company, that there should be recognition of the marital relationship, the partnership between husband and wife, as is done in other juridictions. I think we could say there would not be much loss in revenue because the second half of the estate would be under communal property and not taxed, and it would not be many years before it would pay succession duties and even at a higher rate. We would go along with that.

There is just one other point, if you will permit me to refer to it.

The CHAIRMAN: Certainly.

Mrs. FINLAYSON: The Chamber of Commerce presented a strong case on double taxation of pensions and superannuations. That has been a great concern to all our women's organizations. As you can readily understand, widows very frequently find themselves in receipt of part of their husband's pension that he was either receiving or was entitled to. When that is capitalized and added to the estate, it has, as a previous speaker said, imposed very onerous duties and created a hardship. I have heard the argument presented by the Minister of

Finance and some officials of the department as to why they think that must be taxed, and yet basically we women go back to the fact that we are paying double taxation on it. Surely it is not beyond the ingenuity of the officials of this department, whose ability I certainly recognize, as everybody else does here, to think up a way of avoiding that double taxation. At the moment I am not prepared to advance how it can be done but if the honourable members of this committee and those of the committee of the other house, and the officials, keep in mind that basically it is double taxation, surely they will be able to think up some way of avoiding that. Perhaps this committee might suggest something.

If I may be permitted to tell you of a case we know of: some years ago the Professional Institute of the Civil Service got a concession from the Government that in the case of a superannuation payment becoming payable to the widow of a civil servant, she should be allowed, instead of paying the succession duty on that capitalized pension in four monthly instalments, as the Succession Duty Act provides, she be allowed to pay it over the rest of her life in monthly instalments. That is just exactly the sort of thing that the brief of the Chamber of Commerce advocated. We will say whatever the total tax on that pension was it would be computed on her life expectancy at so much a month, and be deducted from it. That is one of the things they advocate. We do know of a case where a widow of a civil servant applied for this and it was finally granted that for the rest of her life there would be a deduction of so much a month from the pension in order to pay the duty. It was all settled and it was believed the estate was settled but the Department of National Revenue gave notice that they would regard the amount of that tax as income for that widow in that year and that she would have to pay income tax in that year on the total amount of the value of the tax that she was going to pay month by month instead of in four years. Well, you know what that would do to her income tax.

Senator BAIRD: In other words, the Revenue Department repudiated it?

Mrs. FINLAYSON: I don't know exactly what you would call it.

The CHAIRMAN: No. They were treating that as income.

Mrs. FINLAYSON: I suppose it is something that could only be settled by going to the courts, but the ordinary widow cannot afford to take something of that kind before the courts. It was some thousands of dollars and it was going to be added to her income for that one year, and she would have to pay income tax on it. In my simple mind I would think it was more like a transfer of capital back and forth but they said that it was revenue for that one year and that she must pay income tax on it. Of course, she would be far worse off than she was before. I advance this information for the committee and also I would discourage the Chamber of Commerce because that is what would happen to their proposal.

The CHAIRMAN: Well, it might be.

Senator MACDONALD: You are putting us on our guard.

Mrs. FINLAYSON: May I end by saying that I think in the past we have in this country had a concept of family unity, and in taxing policies we would like to see the Government, perhaps I should say the Parliament of Canada, keep that in mind, that this is one piece of legislation where you should keep in mind that the family as a whole, and particularly the husband and wife, have worked together to produce what estate there is, and this should be kept in mind in taxing it.

About a year ago somebody made an address in which they said the most recent shortage in Canada was a shortage of womanpower. They were talking particularly of trained women, such as nurses, social workers, secretaries, stenographers, and so on; and they said really the only pool left that was not being tapped was that of married women who had been trained and who might

go back to employment. Now, we may not think it desirable that married women should go back to employment, but the fact remains that they are going back, and probably will have to go back more so in the future. I think that is another argument for recognizing the family contribution in the building up of an estate, that we would not like to feel that we would have to say to married women, "When you go back to take a job, be sure to keep track of every cent you earn, and don't get the money mixed up with your husband's money, because sometimes you may have to prove you earned it." I should like to bring that before you, too.

Mr. CHAIRMAN: I do not know if there are any questions or not?

Senator BAIRD: What has the witness to say about a couple who married very late in life. Would the wife be making any contribution?

Mrs. FINLAYSON: No, I have to admit she probably would not, but I think when you establish a general principle there is bound to be the exception, and I think that we would not try to penalize a few cases compared with the great number of people who would benefit and are entitled.

The CHAIRMAN: Any other questions? Thank you, very much. The hour is getting late, and we have one group to hear from, the Canadian Life Insurance Officers Association. Would it be at all inconvenient to you, Mr. Tuck, if we heard from you in the morning instead of now?

Mr. TUCK: Not at all, Mr. Chairman.

The CHAIRMAN: Then the committee will adjourn now until tomorrow morning at 10.30.

Whereupon the committee adjourned.